



Standards Committee

Date Thursday 5 September 2019
Time 10.00 am
Venue Committee Room 1A - County Hall, Durham

Business

Part A

**Items during which the Press and Public are welcome to attend.
Members of the Public can ask questions with the Chairman's
agreement.**

1. Apologies for Absence
2. Declarations of Interest, if any
3. Minutes of the Meeting held on 7 June 2019 (Pages 3 - 6)
4. National Picture - Standards Update - Report of Head of Legal and Democratic Services (Pages 7 - 16)
5. Review of Employee Code of Values, Behaviours and Conduct - Gifts and Hospitality - Report of Head of Legal and Democratic Services (Pages 17 - 24)
6. Code of Conduct Update - Report of Head of Legal and Democratic Services (Pages 25 - 40)
7. Such other business as in the opinion of the Chairman of the Meeting is of sufficient urgency to warrant consideration.

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
28 August 2019

To: The Members of the Standards Committee

Councillors J Atkinson, A Bainbridge, E Bell, J Bell, J Clark, M Clarke,
E Huntington, B Kellett, J Nicholson, A Savory and D Stoker

Town Councillor T Batson and Parish Councillor R Harrison

Contact: Jill Errington

Tel: 03000 269 703

DURHAM COUNTY COUNCIL

STANDARDS COMMITTEE

At a Meeting of **Standards Committee** held in Committee Room 1A - County Hall, Durham on **Friday 7 June 2019 at 10.00 am**

Present:

Councillor B Kellett (Chair)

Members of the Committee:

Councillors J Atkinson, A Bainbridge, J Clark, M Clarke, E Huntington, J Nicholson and D Stoker

Co-opted Members:

Parish Councillors T Batson and R Harrison

1 Apologies for Absence

Apologies for absence were received from Councillors E Bell, J Bell and A Savory.

2 Declarations of Interest

There were no declarations of interest.

3 Minutes

The Minutes of the meeting held on 4 March 2019 were agreed as a correct record and signed by the Chairman.

4 National Picture - Standards Update

The Committee considered a report of the Head of Legal and Democratic Services which provided an update on standards issues affecting Local Government (for copy see file of Minutes).

Resolved:

That the report be noted and officers be requested to monitor the progress of the matters referred to and keep the Committee updated.

5 Code of Conduct Review

The Committee considered a report of the Head of Legal and Democratic Services and Monitoring Officer which presented proposals for the revision of the Council's Code of Conduct for Members (for copy see file of Minutes).

On 4 March 2019, the Standards Committee considered the report by the Committee for Standards in Public Life (CSPL) on Local Government Ethical Standards. The report, which followed a period of consultation between January 2018 and May 2018, made a number of best practice recommendations. The Standards Committee requested that the Member Code of Conduct be reviewed in light of the best practice recommendations.

The report summarised the 15 best practice recommendations following the CSPL consultation and made recommendations where necessary to revise the Code of Conduct and associated documents to reflect the best practices.

The Committee considered each Recommendation as follows:

Recommendation 1

The Committee considered this to be absolutely correct and was in full agreement with it.

Recommendation 2

The Head of Legal and Democratic informed the Committee that this recommendation picked up that trivial or malicious complaints could be considered as a breach of the Code and that councillors were required to comply with any formal standards investigation.

Councillor Harrison raised the scenario of a councillor being unable to attend a Standards Hearing due to medical illness and whether proof would be needed. The Head of Legal and Democratic Services replied that she would expect a very good reason for a councillor not to be able to comply with any formal standards investigation or attend a Standards Hearing.

Councillor Batson informed the Committee that generally a first complaint would not be treated as malicious or vexatious, but subsequent complaints may be.

Councillor Clark asked whether this would be adopted by Town and Parish Councils. The Head of Legal and Democratic Services replied that the amended Code would be shared with Town and Parish Councils but that it was a matter for them as to whether they wished to adopt it.

Recommendation 3

The Head of Legal and Democratic Services informed the Committee that the Code of Conduct was already reviewed annually as part of the annual review of the Constitution. Members would recall that the Code of Conduct had been significantly revised last year.

Recommendation 4

The Head of Legal and Democratic Services informed the Committee that code of conduct was currently accessible on the Council's website and was in the Council Constitution. However it was proposed that the Code's webpage was retitled 'Councillor Code of Conduct and Standards Committee' for ease of reference

Recommendations 5 to 10

The Committee noted that the Council's existing practices reflected the recommendations but that the Procedure for Local Assessment of Complaints and the Local Determination Procedure were clarified to reflect current practice..

Recommendation 11

Councillor Batson informed the Committee that he supported that all such complaints should go through the Chair of the Parish or Town Council.

Councillor Clark asked whether this could be done without the agreement of the Clerk. The Head of Legal and Democratic Services replied that a complaint could be made but it would be limited how far this could be taken without the consent of the Clerk. Councillor Clark added that she would not like it to be the responsibility of the Chair.

The Head of Legal and Democratic Services replied that the Chair and Clerk were notified of complaints received and were also supplied with copies of Decision Notices. They would therefore never be unaware of any complaints received. The Head of Legal and Democratic Services confirmed that she would never not consider complaints about the conduct of a Councillor towards the Clerk on the basis that it had not been submitted by the Chair or Council as a whole.

The recommendation was intended to assist the Clerk but it was only a recommendation for Parish and Town Council's to consider and not compulsory.

Recommendation 12

The Head of Legal and Democratic Services informed the Committee she considered that providing advice, support and management of investigations and adjudications on alleged breaches to Parish and Town Councils was already within the remit of a Monitoring Officer for a principal authority.

Recommendations 13 and 14

The Committee noted that the Council's practices already reflected the recommended best practice but that the Local Assessment Procedure should be updated to document the practices in relation to potential conflicts of interest.

Recommendation 15

The Head of Legal and Democratic Services informed the Committee that the Council's arrangements already reflected the recommended best practice. Meetings with political Group Leaders regularly took place as well as meetings to discuss specific conduct issues as appropriate.

Resolved

- (i) That the proposed changes to the Member Code of Conduct, Local Assessment Procedure and Local Determination Procedure be approved;
- (ii) That the proposed changes be considered by Constitution Working Group prior to consideration by full Council.

6 Standards Update

The Committee noted a report of the Head of Legal and Democratic Services and Monitoring Officer which provided an update on activity since the last meeting in respect of complaints received by Durham County Council against councillors (for copy see file of Minutes).

Standards Committee

5 September 2019

National Picture - Standards Update



Report of Helen Lynch, Head of Legal and Democratic Services

Purpose of the Report

- 1 To inform Members of the 'national picture' on standards issues affecting Local Government.

Executive summary

- 2 This report is for information to update the Committee on national developments, consultations and cases which relate to the work of the Committee since the last meeting.

Recommendations

- 3 Standards Committee are recommended to:
 - i. note the report and request that Officers monitor the progress of the matters referred to and keep the Committee updated; and
 - ii. consider any recommendations it wishes to make arising out of the content of the report.

Background

- 4 As agreed by the Committee on 10 December 2018, as part of the annual work programme, this will be a standing agenda item with a quarterly update to the Committee.

Code of Conduct Complaints

- 5 Since the abolition of the Standards Board for England, national statistics and case reports are no longer collated. Therefore, any cases reported are taken from general research where councils publish details of their conduct hearings in public.

Devon County Council – Councillor Brennan (16 July 2019)

- 6 The Monitoring Officer received a complaint alleging that a Member had breached the Code of Conduct. It was alleged that the Member had:

- a. Failed to treat others with courtesy and respect;
- b. Bullied a person; and
- c. Conducted herself in a manner or behaved in such a way as to give a reasonable person the impression that they had brought their office or the Council into.

- 7 The allegations arose from events which took place at a meeting on 25 April 2019. A report of the Monitoring Officer was presented to the Standards Committee which gave the background on actions to date including receipt of the complaints, the Members response and consultation with the Independent Person and the views of the Assessment Sub Committee. The decision of the Assessment Sub Committee was recorded that the *'views of the Independent Person be noted, but the Sub Committee exercise its discretion to suggest a different course of action to that of a formal investigation and ask Officers to bring a Report to the next meeting of the Standards Committee based on the information already submitted, notwithstanding the Subject Member must have the opportunity to comment on any draft and final Report'*.

- 8 The Monitoring Officer presented the report to the Standards Committee, reminded the Committee of their role and remit which was to determine, considering the Report in front of them, whether it considered the Code of Conduct had been breached.

- 9 The Standards Committee considered the report and it was decided that the Member had breached elements of Code of Conduct, namely to 'treat others with courtesy and respect' and not to 'behave in such a way as to bring their office or Council into disrepute'. However, there was no breach in respect of the bullying allegation.

- 10 The Standards Committee considered the sanctions available to them and agreed the following:
 - a. That the Member issue a formal and robust apology to the complainants, the wording of which is to be approved by the Group Leader and the Chair of this meeting of the Standards Committee;
 - b. That training be organised by the Monitoring Officer or her Deputy, focussing on anger management and the use and knowledge of Council processes and procedures to achieve individual aims and make good decisions on how to progress these; and
 - c. That the Member does not attend the review meetings until such times that (a) and (b) above have been undertaken.

Bournemouth Borough Council Councillor Beesley (29 March 2019)

11. In April 2017, the Monitoring Officer received a complaint regarding the Leader of the Council. The Complainants were all Members of Bournemouth Borough Council. The complaint related to alleged breaches of the Code of Conduct, and alleged breaches of the Localism Act 2011 which are criminal offences. Consequently, the Complaint was referred to Dorset Police for investigation. The Council were advised not to undertake its own investigation until after the Police investigation has taken place. Once it was decided that no further action would be taken in respect of the criminal investigation, the Council commenced an investigation. It was decided that an independent investigator was required to provide a full report.
12. The Member was alleged to have breached the following elements of the code:
 - a. compromising or trying to compromise the impartiality of Council officers;
 - b. allowing his/her conduct or behaviour to bring disrepute on the Council or compromising the Council's duty to promote and maintain high standards;
 - c. Using or attempting to use his/her position improperly for his/her or any other person's gain or loss; and
 - d. bullying, harassing or intimidating other people.
- 13 The basis of the complaint against the Member was that his business and his political activities were intertwined. The Member was hired by a Development Business to act for them over their planning application for a Hotel. The Member was alleged to have not properly disclosed this pecuniary interest in his register of DPIs. The Member also attended numerous meetings with the Council's Planning officers together with his client. Additionally, the Member was using the same mobile number for both his Business and as his role as a Councillor.

- 14 The Council's DPI guidance to Members stated that any trade or profession carried out for profit or gain by a Member must be disclosed in the DPI register and must state the name of the party employing the Member.
- 15 The Member responded to the complaint and acknowledged his attendance at team meetings with the client and Planning Officers. He stated that he began each meeting with a declaration that he was attending these meetings in the capacity of a consultant advisor to his clients and that Officers were to ignore his role in the Council. The Member received advice from the Monitoring Officer at each stage of the process.
- 16 The Committee considered the following allegations:
 - a. Compromising the impartiality of those who work for the Council. Overall, the investigation found that there was no direct evidence in support of the allegation. However, there was compelling evidence from Officers who stated during interviews that they were not compromised in the way alleged. Therefore, there was no breach in respect of this ground. It was decided that it was appropriate for the Subject Member to explain his status when acting as a consultant.
 - b. Allowing his/her conduct or behaviour to bring disrepute on the Council or compromising the Council's duty to promote and maintain high standards. This ground is concerned with damage to public confidence and reputation of the individual and the Council. It was decided that a member of the public, knowing all the relevant facts, would reasonably think that the Subject Member's actions would not impact the Council's abilities to properly carry out its functions. Nor would these actions compromise the Council's duty to promote and maintain high standards. Therefore, there was no breach in respect of this ground.
 - c. Improper use of position. The evidence did not support this allegation. The Officer's evidence was compelling in showing that they did not (nor would they allow) such impropriety in their dealings with the project. It was concluded that the Subject Member did not improperly use his position for personal gain and subsequently did not breach the Code of Conduct in this respect.
 - d. Bullying. The investigation concluded that there was no evidence of bullying of these Officers in relation to this matter. There was no breach of the Code of Conduct in this respect.

- 17 The final decision was that at all material times the Member was not acting in an official capacity but in his private capacity as a consultant. None of the allegations were proven and it was decided that the Member was not in breach of the code of conduct.

Cornwall Council – Councillor Brady of Saltash Town Council (15 April 2019)

- 18 The Monitoring Officer considered a complaint concerning the alleged conduct of a Member. The Councillor is alleged to have breached the following:
- a. You must treat others with respect;
 - b. You must not treat others in a way that amounts to or which may reasonably be construed as unlawfully discriminating against them;
 - c. You must not bully any person;
 - d. You must not attempt to intimidate others;
 - e. You must not do anything that could reasonably be regarded as bringing your office or you authority into disrepute;
 - f. You must not use or attempt to use your position as a member of the Council improperly to confer on or to secure for yourself or any other person an advantage or disadvantage; and
 - g. 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.
- 19 The allegations related to a series of emails sent by the Member to the Complainant. The Member also copied other Members into the emails.
- 20 The subject matter of the email concerned a previous complaint made by the Member about the Complainant. This previous complaint related to the Complainant failing to advise the Chairman that she was leaving the room when a matter concerning non-payment of Council Tax was discussed during a meeting of the Council. The Member alleged these actions conflicted with the Local Government Financial Act 1992 whereby it states all Members should declare whether they have Council Tax arrears before voting on a matter. The complaint was rejected on the ground of lack of evidence. As a result of the emails, the Complainant felt obliged to disclose personal medical details to explain why she had urgently left the room in order to address the allegations.
- 21 The Monitoring Officer found that it was unnecessary for the Member to act in this manner and should he have wished to discuss the matter with the Complainant he should have done so in a private manner and not in an open email. The Monitoring Officer also felt that the nature of the emails where often threatening, the Member threatened to seek legal

advice and to involve police. By copying other Members in to the emails, the Monitoring Officer found that this was an attempt to intimidate the complainant and to gain potential support.

- 22 The Member sent the emails using his Councillor email address and the emails related to matters that had been subject to previous code of conduct complaints. Therefore, the Monitoring Officer was satisfied that the Member was acting in his official capacity as a Councillor at the time of sending the emails.
- 23 It was concluded that the Member was in breach of all alleged elements of the code apart from part 2 (treating others in a way that unlawfully discriminates against them) and part 6 (using your position as a Member improperly to confer on or to secure for yourself or any other person an advantage or disadvantage).
- 24 Following the finding of a breach, the Monitoring Officer made the following recommendations:
 - a. The Member writes a meaningful apology to the Complainant; and
 - b. The Council censure the Member and should consider publishing the Censure in a local publication available to those living within the vicinity.

Cornwall Council – Councillor Hicks of St. Allen Parish Council (26 February 2019)

- 25 The Monitoring Officer considered a complaint concerning the alleged conduct of a Member. The Subject Member was alleged to have breached the following elements of the Code of Conduct:
 - a. Failure to disclose an interest;
 - b. You must treat others with respect;
 - c. You must not intimidate or attempt to intimidate others;
 - d. You must not do anything that could reasonably be regarded as bringing your office or you authority into disrepute; and
 - e. 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.
- 26 The basis of the complaint was that the Subject Member had failed to declare an interest in a matter discussed during a Parish Council Meeting. The matter discussed related to the development of a new footpath to a Byway which lay on the Member's land.
- 27 Under the Code, a member should declare an interest and leave the room when the agenda item is presented or as soon as they become aware that an interest occurs.

- 28 The Member's response was that his land did not have any rights of way and so was not expecting the footpath item to have anything to do with his land. The Member did leave the room after the matter has been partly discussed and after the discussion had become heated.
- 29 The Monitoring Officer found that taking part in this discussion showed that the Member knew of his interest and so should have adhered to the Code and left the room prior to any discussion taking place.
- 30 It was also alleged that the Member spoke disrespectfully to Complainant A during and after the meeting. Complainant A stated that during the meeting when speaking about the matter relating the footpath, she was subject to a 'verbal onslaught'. The Member allegedly spoke over her and interrupted her, swore several times all in a raised voice. This allegation was supported by the minutes of the meeting. After the meeting, the Member approached Complainant A and stated, "had enough now? Happy now? Finished?". Although these comments were not witnessed the Monitoring Officer found on the balance of probabilities that the incident did take place.
- 31 Regardless of comments taking place outside the meeting, as they were made in reference to the earlier item under discussion, the Monitoring Officer found the Member to be acting in his official capacity as a Councillor.
- 32 Complainant B alleged that the Member proposed a bribe in exchange for being able walk on the land in question. The Subject Member was alleged to have stated "Give me £100 grand and I will let you walk in" in reference to coming on to his land.
- 33 Following the finding of a breach, the Monitoring Officer made the following recommendations:
- a. The Member should apologise in writing to both complainants.
 - b. The Member should attend code of conduct training for his failure to declare a non-registerable interest.
 - c. The Member should not take part in any discussions relating to the footpath in future.

Background papers

- None

Other useful documents

- <https://democracy.devon.gov.uk/mgAi.aspx?ID=19518>
-
- <https://www.bournemouth.gov.uk/councildemocratic/CouncilMeetings/CommitteeMeetings/StandardsCommittee/2019/03/29/agenda/agenda-and-reports.pdf>
- <https://www.cornwall.gov.uk/media/38394799/ccn044-18-19-decision-notice-councillor-brady-saltash-town-council.pdf> (Decision Notice Ccn039)
- <https://www.cornwall.gov.uk/council-and-democracy/councillors-and-democracy/standards-committee-information/decision-notices-april-2018-to-march-2019/> (Decision Notice Ccn039)

Contact: Kamila Coulson-Patel Tel: 03000 269674

Appendix 1: Implications

Legal Implications

The Council has a duty under s. 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its members and to adopt a code of conduct that is consistent with the Nolan Principles. Ensuring that the Standards Committee is kept up to date with national Standards issues is expected to facilitate compliance with this duty.

Finance

None

Consultation

None.

Equality and Diversity / Public Sector Equality Duty

None.

Human Rights

None.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

None.

Procurement

None.

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Standards Committee

5 September 2019



Review of the Employee Code of Values, Behaviours and Coduct - Gifts and Hospitality

Report of Helen Lynch, Head of Legal and Democratic Services

Purpose of the Report

1. To inform the Standards Committee of proposed revisions to the Employee Code of Values, Behaviours and Conduct on Section 5.10 Gifts and Hospitality.

Executive Summary

2. As part of the aim to promote high ethical standards within the authority and as good practice a review was undertaken of the Code of Values, Behaviours and Conduct in January 2019, particularly in relation to Section 5.10 Gifts and Hospitality.
3. The review recommended a number of amendments to the Code by way of clarification to make it easier for Employees to understand their obligations in relation to Gifts and Hospitality.

Recommendation

4. That the Standards Committee:
 - i. consider the proposed changes to Section 5.10 of the Code of Values, Behaviours and Conduct as attached at Appendix 2; and
 - ii. recommend that the proposed changes are considered by Constitution Working Group prior to consideration by full Council.

Background

5. The Council adopted the new Code of Values, Behaviours and Conduct (the Code) at a Full Council Meeting on 19 September 2018. Section 5.10 of the Code relates to Officer gifts and hospitality.
6. Members may recall that during the 2017/18 review of the Constitution, the arrangements for Members in relation to gifts and hospitality were reviewed. A similar review has now been undertaken in relation to the arrangements in place relating to Officer Gifts and Hospitality. The review recommended that the Employee Code of Values and Behaviours is amended to clarify the obligations for Officers in relation to gifts and hospitality.
7. The Code suggests that Officers do not need to declare offers/acceptance of gifts and hospitality where acceptance would not create a conflict of interest. Whilst there might not be a conflict of interest, accepting gifts and hospitality without the appropriate declarations may create the perception of a conflict of interest. The Code has therefore been clarified so that all offers of gifts and hospitality (other than token gifts/hospitality of a nominal value) should be declared.
8. The Code has therefore been amended to give examples of token gifts/hospitality that do not need to be declared such as light refreshments offered during meetings, conferences etc or token gifts such as mugs, mouse mats, pens etc.
9. Where Officers are invited to attend and/or speak at conferences or events and the event organiser pays for/reimburses travel expenses, accommodation costs and subsistence expenses, these should be declared as hospitality in advance of the event. The Code has therefore been amended to clarify this requirement.
10. Consideration was given as to whether all gifts and hospitality should be declared even if they are refused. However, declaring hospitality invitations which are declined may be particularly onerous to Officers who receive a number of such invitations. It is therefore proposed that hospitality only needs to be declared if it is to be accepted. However, it is recommended that all gifts are recorded even if they are declined/donated to the Chairman's charity. This will protect Officers from any accusations of theft or accepting inducements. It is proposed that section 5.10 is amended so that the obligations in relation to gifts and hospitality are separated so the different obligations are clear.

11. The review also recommended that the Code/declaration form should be amended to explicitly that gifts from service users and gifts of money should never be accepted. It was noted that in some instances refusal of a gift is not always possible or may cause offence. In such circumstances, Employees may donate the gift to the Chairman's charity. It is therefore proposed that the declaration form be updated to reflect the option of donating the gift to the Chairman's charity.
12. The Code requires that attendance at sporting events needed to be approved by the relevant line manager to confirm that there was a specific justification for attending such an event. This is inconsistent with the general requirement that acceptance of all gifts and hospitality is to be approved by Heads of Service. It is therefore proposed to amend the Code to address this inconsistency. The declaration form has also been amended to include rationale from the Head of Service as to the justification for approving acceptance of the gifts/hospitality.
13. The review also recommended that the Code should be amended to make it clear that hospitality should be approved in advance. However, it is acknowledged that there will be rare occasions where hospitality is offered at short notice and it is not possible for Officers to decline without causing offence. In those circumstances, a declaration should be made immediately after the event.

Conclusion

14. Consideration has been given to recommendations of the review and the proposed updates to the Code have been made accordingly shown at Appendix 2.
15. If the changes are approved by full Council, employees will need to be informed of the changes which will be carried out by briefings and direct communications.

Background Papers

None

Contact: Helen Lynch Tel: 03000 269732

Appendix 1: Implications

Legal Implications

Members do not generally get involved in matters relating to employee conduct. However, the Code of Values and Behaviours forms part of the Council's Constitution and amendments require approval of full Council. Consideration of proposed changes to the Code is consistent with the Standards Committee remit to help the Council meet its statutory duty to uphold high standards of ethical conduct within the authority.

Finance

None

Staffing

The Code applies to all employees of Durham County Council (excluding School employees), and the updated document will be available on the Council intranet.

Risk

None

Equality and Diversity / Public Sector Equality Duty

None

Accommodation

None

Crime and Disorder

None

Human Rights

None

Procurement

None

Disability Issues

None

Consultation

Relevant consultation will be undertaken with Trade Unions and changes will be communicated to employees.

Appendix 2

5.10 Gifts and hospitality

Gifts, hospitality or benefits in kind offered to you must be treated with caution to avoid any suggestion of improper motives or conduct. Approval must be given by the appropriate authorising manager, as detailed in the CCE4 form.

You must always:

- declare to your Head of Service, by completing form [CCE4](#), if you are offered, or you wish to offer, any gifts, hospitality (for example attendance at sporting events, formal dinners or conferences), or other advantage;
- inform your Head of Service, by completing form CCE4, if you have been offered gifts, hospitality or advantage, even if your intention is to reject the offer, and you are not seeking permission to accept;
- use tact and courtesy if you need to refuse a gift or hospitality. Even where gifts are refused, this should still be recorded using the CCE4 form;
- report to your Head of Service any approaches made to you which may be an attempt to gain some form of preferential treatment;

Specifically, in relation to Gifts:

- in circumstances where a gift is delivered and cannot be declined or returned, you should complete a CCE4 form to request permission to personally accept the gift or for the gift to be passed on to the Chairman's Charity;
- there is no requirement to seek approval for token gift such as mugs, mouse mats, pens etc.
- you must not accept gifts or legacies from current or former service users/clients (you personally or members of your family);
- gifts of money or alcohol should never be accepted (but alcohol may be donated to the Chairman's charity if refusal to accept would cause offence).

Specifically, in relation to Hospitality:

- only accept hospitality (e.g. meals/refreshments/event tickets) if there is a genuine need to convey information or to represent the council;
- you need to be sure that accepting the hospitality does not create a conflict of interest;
- there is no requirement to seek approval to accept light refreshments which are offered during meetings, conferences, etc (for example tea/coffee/snacks/sandwiches);
- if invited to attend and /or speak at conference or events where travel expenses, accommodation costs and subsistence expenses are paid for by the organiser, these should be declared as hospitality in advance of the event, as should attendance at a conference / event on a complimentary basis;
- should hospitality be offered at short notice and it is not possible to decline without causing offence, a declaration must be made immediately after the event.

Form CCE4

Declaration of Offers of Hospitality or Gifts

Name		Payroll number	
Job title			
Team			
Service			

In accordance with the council's Code of Conduct, I hereby

<input type="checkbox"/>	declare having been offered the following hospitality or gifts and request approval to accept.
<input type="checkbox"/>	declare having been offered the following hospitality or gifts and request approval to accept and donate to the Chairman's charity.
<input type="checkbox"/>	request approval to provide the following hospitality or gifts.

Details of gift or hospitality	
Date offer of gift or hospitality made	
Nature of gift or hospitality	

Date gift or hospitality received	
Venue	
Date of event	
Approximate value (£)	
Name and address of person/organisation making the offer	

Employee signature (electronic if possible)		Date	
<p>Please send the form to your Head of Service for approval. A Head of Service should send it to their Corporate Director. A Corporate Director should send it to the Chief Executive. The Chief Executive should seek approval from the Corporate Director of Resources.</p>			

Authorisation			
Date form received			
Request approved?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Reason for approval or rejection			
Confirmation of decision letter sent to employee		Date	
Copy of form sent to Payroll and Employee Services for inclusion on personal file		Date	

Authorising Officer Name			
Authorising Officer Job Title			
Authorising officer signature (electronic if possible)		Date	

Standards Committee

5 September 2019

Code of Conduct Update



Report of Helen Lynch, Head of Legal and Democratic Services and Monitoring Officer

Electoral division(s) affected:

None.

Purpose of the Report

1. To provide the Committee with an update on activity since the last meeting in respect of complaints received by Durham County Council against councillors.

Executive Summary

2. The report provides at Appendix 2 a list of complaints of alleged breaches of the Code of Conduct currently being assessed and those which have been completed. Complaints are considered in accordance with the council's Local Assessment Procedure dated October 2018.

Recommendation

3. Members are asked to note the contents of the report.

Complaints

5. There have been a total of 11 formal complaints in the last period. The complaints of COM 249, COM 251, COM 252, COM 253, COM 254 and COM 255 were temporarily suspended to allow the complainants to consolidate the complaint as additional information was being presented to the Monitoring Officer.
6. Thirteen final decision notices have been issued between the period of 21 May 2019 and 27 August 2019 in respect of complaints ref: COM 222, COM 225, COM 240, COM 243 – 244, COM 246, COM 248, COM 256, COM 257, COM 258, COM260, COM263, COM265 and COM268. The outcome of each complaint is included in Appendix 2.
7. Three further decision notices have been issued in respect of COM 211-213, COM 223 and COM 236 which have been referred for a standards panel to take place on 17 September 2019.
8. There have been several pre-complaint enquiries and two complaints have been rejected at the pre initial assessment stage, specifically COM 262 and COM 266.
9. It would not be appropriate to comment on those complaints that are currently being assessed/investigated but Decision Notices will be available for inspection once the decision has been communicated to the Member subject to the Complaint.

Main implications

Legal Implications

10. The council has a duty under s. 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its members and to adopt a Code of Conduct that is consistent with the Nolan Principles. It must also have in place arrangements to consider allegations about breaches of the Codes of Conduct for Members, by the council's own members and of members of parish/town councils for which the council is the principal authority.

Conclusion

11. The report is intended to provide an overview of complaints handling to assist the Standards Committee to fulfil their role in promoting and maintaining high standards of conduct.

Background papers

- Local Assessment Procedure dated October 2018.
- Decision Notices.

Contact: Kamila Coulson-Patel Tel: 03000 269674

Appendix 1

Legal Implications

As outlined in the report.

Finance

None.

Consultation

None.

Equality and Diversity / Public Sector Equality Duty

None.

Human Rights

None.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

None.

Procurement

None.

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Appendix 2: Code of Conduct Complaints – As at 27 August 2019

Ref	Council	Date	Allegations	Code	Decision Notice	Outcome/Status
COM 200	Parish	15.10.2018	<p>The Complainant states that the Councillor instructed an Officer to remove rocks from three areas of the village. The Complainant says that this work has not been tabled or minuted at any recent Parish Council meeting, and that the Councillor has recently asked the Clerk to place it on the Agenda for the meeting of the Council, after the work was authorised, and started and completed in two locations.</p> <p>It is alleged that this is the second time that the Councillor has made a decision when the placement of a rubbish bin was done without a Council decision.</p>	Paragraph 3		Under consideration by Governance Solicitor.
COM 202	Parish	15.10.2018	The Complainant alleges that the Councillor failed to declare an interest at a meeting in a matter which related to a Partnership of which he was a Director.	Paragraphs 1, 2 and 11-15	12.12.2018	Referred for Investigation
COM 203	Town	15.10.2018	The Complainant says that the Member made defamatory statements against her and was upset by the bullying and intimidating manner the Councillor used in front of other Councillors and members of the public, without apology. The Councillor had also authorised the felling of a tree without Council approval.	Paragraphs 4.11, 4.12 and 4.13		Under consideration by Governance Solicitor.

COM 204, 208	Parish	COM204 – 15.10.2018	The complainants allege that the Councillor: 1) tries to influence decisions of the Allotment	Paragraphs 1, 2, 4 and 6	10.12.2018	Referred for Investigation.
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and 210		COM 208 - 08.11.2018 COM 210 13.11.2018	<p>Association by using their position as a Parish Councillor;</p> <p>2) persuaded the local PCSO to issue Harassment Orders to the members of the Allotment Association which were then revoked.</p> <p>3) tried to have the complainants evicted from the Allotment Association;</p> <p>4) circulated details of a spent criminal conviction of one of the complainants around the village.</p>			Additional information supplied as part of the investigation.
COM 211, 212 and 213	Town	13.11.2018	<p>The Complainants complain about the conduct of the Councillor at 'The Lighting of the Beacon of Hope Service' as part of Remembrance Day activities on 11 November 2018. The Complainants allege that the Councillor was under the influence of alcohol, showed no respect throughout the service and could not fulfil his duties as part of the Order of Service.</p> <p>The complaints amount to an allegation that the Councillor has failed to behave in such a way that a reasonable person would regard as respectful, contrary to paragraph 1 of the Code of Conduct, and has behaved in a manner which could be regarded as bringing the Council, or office as a member of the Council into disrepute, contrary to paragraph 6.</p>	Paragraphs 1 and 6	03.01.2019 08.07.2019	Referred for standards hearing on 17 September 2019
COM 222	Parish	02.01.2019	<p>It is alleged that at the Parish Council meeting on 20 December 2018, there was a disagreement between the Complainant and the subject Councillor about the provision of a defibrillator. It is alleged that the Chairperson had been subject to "quite a tirade of abuse from the Councillor". The Complainant returned to his car and the Councillor opened the door of his own car and shouted at him that the Complainant had tried to humiliate him in the Council, and he had better watch himself because he would be watching every move he made. The Complainant asked "is that a threat" to which the Councillor replied "no it isn't but I will be watching you".</p>	Paragraphs 1 and 2	10.06.2019	<p>No further action - It is accepted that following a disagreement in a public meeting an exchange took place outside of the building between the Member and the Complainant. The assertion by the Complainant that the Member waited for him cannot be proven, as there are two differing accounts with no supporting evidence to confirm.</p> <p>Reminder that Members should always be mindful of their actions in public office, that their conduct and behaviour could be called into question which could be considered by a code of conduct complaint and</p>

						in the case of threatening or intimidatory conduct, could result in reporting to the police.
COM 223	Town	09.01.2019	It is alleged that on 4 January 2019 the Complainant received a call from the Councillor demanding that she inform him of the outcome of a Sub-Committee meeting she had attended on 19 December 2018 which the Complainant says she could not do because it related to the personal information of an individual. The Councillor was verbally aggressive implying that she was stupid and the Complainant considers the Councillor's behaviour was a clear example of male to female bullying.	Paragraphs 1 and 2	06.02.2019 08.07.2019	Referred for standards hearing on 17 September 2019
COM 225	Parish	16.06.2019	At the Parish Council meeting on 20 December 2018, it is alleged that during a presentation by the Police the Member stated in an aggressive and negative manner that he had no faith in the Police. The vacancy of a Parish Councillor was discussed at the meeting and the Complainant states that the appointment did not appear welcomed by the Member. Following the meeting the Member posted a comment on his Facebook page which the Complainant found to be untrue and misleading. It is alleged that during an item for a funding request and a confidential item that the Member behaved aggressively. It is alleged that the Member made personal accusations against the Complainant.	Paragraphs 1 and 3	10.06.2019	No further action – It is necessary to recognise that from time to time there will not always be agreement between Councillors It must be emphasised that all Councillors need to aware of their style and approach, and how this may be perceived by others. Councillors must at all times, even where there may be a difference of views, promote and maintain the high standards expected of them as Councillors and to treat others with respect.
COM 236	Town	15.02.2019	The Complainant alleges that the Councillor has behaved in a manner which is contrary to the code, specifically that: <ul style="list-style-type: none"> • He shall behave in such a way that a reasonable person would regard as respectful. • He shall not act in a way which a reasonable person would regard as bullying or intimidatory. • You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a member of the Council, into disrepute. 	1, 2 and 6	13.03.2019 08.07.2019	Referred for Investigation – with COM 211-213, 223 Referred for Standards Hearing on 17.09.2019.
COM 240	County	04.03.2019	The Complainant states that the Member placed two biased, factually inaccurate and coercive posting onto	Paragraph 4.3h	10.06.2019	No further action - The Governance Solicitor found in that thee posts

			Facebook regarding the Northern and Western relief Road proposed in the County Durham Plan. The Member encouraged others to share the post. It is also alleged that the Member has conducted at least one public presentation promoting his views as a County Councillor on the relief roads which the Complainant suggests represents lobbying, contrary to the code.			<p>there are references to the Member as a Councillor. It was therefore reasonable to consider that the posts to be made by the Member in his capacity as Councillor.</p> <p>The complaints relate to allegations of bias and pre-determination, section 25 of the Act applies where the validity of a decision is questioned as a result of an allegation of bias or pre-determination or otherwise and it is relevant whether the decision-maker had, or appeared to have, a closed mind. A finding of pre-determination can only be determined following judicial challenge.</p>
COM 243 and COM 244	County	05.03.2019	The Complainants state that the Councillor submitted a post on his Facebook page urging support for the proposed Durham City Western and Northern Relief Road which was biased and misleading. The Councillor has behaved in a such way which could bring into question the Councillor's impartiality.	Paragraph 4.3(h)	10.06.2019	<p>No further action - The Member states that the representations were made on his personal Facebook account and represent his personal views. The Governance Solicitor noted that there were references to the Member as a Councillor in the posts and found the Member to be acting in the capacity as a Councillor.</p> <p>The complaints relate to allegations of bias and pre-determination. The law surrounding bias and pre-determination is set out at section 25 of the Localism Act (the Act) with clarification through case law. A finding of pre-determination or bias can only be made by the Court following a judicial challenge on the decision which is said to have been subject to bias and/or pre-determination. The Complainants make reference to a planning</p>

						decision, it must be noted that the County Durham Local Plan is not a decision of the Planning Committee but is a decision of the Council as a whole.
COM 246	County	01.04 2019	The Complainant states that he called the Member about the location of the Council's new Head Quarters and the application which was supported by the Member. The Complainant did not feel that the Member could represent him as a Durham City trader when she represents another ward in County Durham. It was alleged that the Member invited the Complainant to call her back however when he did so he did not receive an answer or reply. The Complainant wanted to know why the Member refused to speak to him. The Complainant wants to know why the Police visited him in relation to allegations of harassment and a voicemail which was left. The Complainant denies that the voicemail was aggressive or threatening.	Paragraphs 4.3(b) and 4.3(k)	25.05.2019	<p>No further action – The Independent Person was consulted by the Governance Solicitor.</p> <p>The decision of the LPA is not a sole Member decision, this is a decision of the collective and the reasons for the decision are set out in writing. It would not be considered appropriate for individual Members of the Planning Committee to be challenged on the decision of a LPA.</p> <p>In relation to the first call there were two differing accounts of the telephone call. The account of the Member has been corroborated by a witness who was travelling with the Member who confirms that the Member did attempt to return the call.</p> <p>The Governance Solicitor found that the Complainant was not satisfied with the response and persisted in making calls to the Member which took place over six days including a weekend. The Member reports that over a course of a few days she experienced multiple missed calls from the Complainant. The Member did not deliberately avoid the calls of the Complainant however before having an opportunity to return the call she was left with a voicemail which she describes to be of a</p>

						<p>threatening tone. Due to the tone of the message left coupled with the persistent attempts to contact the Member, the Member sought advice and was advised to monitor this. A further message was left on 26th March 2019 and the Member reported the concerns to the Monitoring Officer that the message was considered threatening. The Monitoring Officer directed that an Officer would contact the Complainant.</p> <p>For the purposes of assessing the complaint the voicemail could not be retrieved and the assessment was carried out based on the verbal accounts.</p>
COM 247	Parish	02.04.2019	The Complainant alleges that the Councillor's behaviour towards the Clerk was bullying and intimidatory in Council meetings and provided details of a series of events in support of the allegations.	Paragraphs 1 and 2	27.05.2019	Investigation completed and awaiting comments on the report and draft decision notice from the Independent Person.
COM 248	Town	05.04.2019	The allegations regarding the conduct of the Member are linked to a complaint which has been subject to a standards investigation and has been recommended for consideration by the standards panel.	Paragraphs 1 and 2	12.07.2019	No further action - Both the Complainant and the Member as part of a linked investigation have provided comments on allegations of a potential breach. The findings of the investigation will be considered standards hearing who will determine whether there has been a breach of the code. It is unnecessary to consider this complaint further when the substantive issues will be in due course considered by the standards panel.
COM 249, COM 251	Parish	05.08.2019	COM 249 and COM 254 The Complainant alleges that there has been financial misconduct by the Councillor, that the Councillor has	1,2,3,4,5 and 6		Member requested extension to prepared response to 06.09.2019.

and COM 254			<p>behaved in a bullying manner towards the Complainant, has failed to declare an interest, and has used his position to gain influence.</p> <p>COM 251 It is alleged that the Councillor has been working in collusion with a number of persons from an Allotment site to have him isolated and excluded.</p> <p>The Councillor has failed to provide member subscriptions to NSALG and an insurer in respect of rent for an allotment site.</p> <p>The Councillor disclosed information which had been discussed as exempt at Council meetings in 2017 and 2018.</p>			
COM 252	Parish	05.08.2019	<p>The Complainant states that following a visit to the allotment site on 20 January 2019 the Councillor had made a complaint against him, stating he had shouted and sworn when she had attended the allotment and that he had been spreading gossip about a tenant. An investigation was carried out, the Complainant denied the allegations and there was no further action.</p> <p>The Complainant was unhappy with the representations which may have been made by the Councillor at a Council meeting on 13th February 2019 under exempt information. The Complainant alleges that his response to the complaint against him was not considered and he did not have an opportunity to make his representations to the Council.</p> <p>The Complainant alleges that the Councillor has concocted the allegations in a bid to censure, to isolate and discriminate against him and others of the allotment. He alleges that the Councillor openly discusses Parish Council exempt information. The Complainant has been told that the Councillor is foul-mouthed and aggressive. There are also allegations regarding criminal behaviour.</p>	Paragraphs 1,2,3,4,5 and 6		Member response provided – Under consideration by Governance Solicitor.
COM 253	Parish	05.08.2019	<p>It is alleged that the Member was aggressive towards the Complainant at a public meeting which the Complainant finds to be a breach of the Code.</p>	Paragraph 1		Member response provided – Under consideration by Governance Solicitor.

COM 256	Town	21.05.2019	The Complainant alleges that the Member posted what he describes as racial inflammatory messages on the internet.	Paragraph 3.1 (i)	26.06.2019	No further action. - Where Councillors express themselves in their capacity as Councillors, whether on social media or otherwise, the Code of Conduct imposes various obligations, including those of treating other people with respect. The account is a personal Facebook account and does not identify the Member as a Councillor. None of the posts refer to any business of the Council. For these reasons, the Code of Conduct is not engaged.
COM 257	County	04.06.2019	<p>The Complainant alleges that on 8 October 2018 an email was sent from an Officer of the Council warning him that if he continued to contact the Member he may be subject to legal and police action. He did not make any further contact with the Member.</p> <p>On 10 October 2018, the Complainant had two police officers attend his home accusing him of harassing the Member. The Complainant believes that the allegations centre around a series of emails dated from 24 January 2016 and 26 September 2018. The Complainant believes that the Member has based an accusation of harassment on her objection to his use of adjectives such as vile and rancid to describe her attitude and approach to those who disagree with her. The Complainant questions whether the use of those words warrants two police officers attending his home.</p> <p>The Complainant objects to the Member using what he describes as free legal backing against residents.</p> <p>The Complainant states that the conduct of the Member has not been consistent with someone making allegations of harassment. It is alleged that by the Complainant that the Member of bullying, intimidation and attempted humiliation towards him.</p>	Paragraph 4.3(j)	12.08.2019	<p>No further action – The views of the Independent Person were sought by the Governance Solicitor.</p> <p>Whilst the Complainant and residents have the right to submit their concerns over local issues to Councillors this does not equate to an opportunity to make personal remarks and persist in such remarks. Such conduct in itself is capable of amounting to harassment.</p> <p>On consideration of the complaint together with the full emails supplied by the Complainant, no evidence of harassing or bullying towards the Complainant could be established. The Complainant conversely has sent a barrage of emails to the Member and when advised to cease, persisted.</p> <p>In relation to the allegation of attempted humiliation, this could not be upheld, the actions of the</p>

						Member were appropriate and were not an attempt to humiliate the Complainant. The Member set out her position to the Complainant and when the emails followed the Member reported the concerns to the police, concerns which were genuinely felt and actioned by the police as they saw fit.
COM 258	Town	24.06.2019	<p>The Complainant alleges that the Member posted two social media posts which were considered by the Complainant to be offensive and untrue.</p> <p>The first post was made on 28 February 2019 and the second post was made on 23 May 2019.</p>	Paragraph 1	16.07.2019	No further action – The first post of February 2019 pre-dates the Member being elected and therefore the code is not engaged. In relation to the second post there was insufficient evidence to support a finding of a breach of the code. The Member has reported on social media matters which were already in the public domain, specifically that the Complainant did not sign a declaration. In any event it is important to note that social media profile appears to be the personal account of the Member which would take this matter outside the scope of the standards regime.
COM 260	County	25.06.2019	The Complaint alleges that at a meeting of the County Planning Committee the Member read from a prepared speech proposing that the application be approved. It was alleged that this was an unmistakable evidence of bias, pre-determination and a closed mind approach when taking a planning decision.	Paragraphs 4.3 (c) and 4.3 (h)	15.07.2019	<p>No further action – It is considered reasonable that a Member would prepare in advance especially in respect of planning reports. The notes made in advance can be adapted in light of representations made at the meeting which was accepted practice by this Member.</p> <p>Section 25 of the Localism Act 2011 sets out that a decision maker is not taken to have had, or to have appeared to have a closed mind (to any extent) just because he/she has previously done anything that</p>

						directly or indirectly indicated what view he/she took or would or might take.
COM 262	Parish	09.07.2019	The Complainant wanted to speak to the Member about his garden allotment. The Complainant spoke to the Member at the allotment and it is alleged that the Member used offensive language towards him when he tried to speak to him about the allotments.	Not applicable	19.07.2019	Rejected - on consideration of the complaint it was evident that the Member was not acting in the capacity as councillor when visiting his allotment.
COM 263	Town	25.07.2019	<p>The Complainant alleges that on 13 July 2019 it became known that the Member made had a series of alleged derogatory comments on Facebook about the Clerk. The comments were made on a community Facebook page as well as on his own page shown as a Councillor. The Complainant finds the comments relating to the Clerk to be inaccurate and insulting.</p> <p>The Member was asked to remove the page and to offer a public and personal apology to the Clerk. The Member complied with the request to remove the page. The Member apologised to the Clerk however the apology was not public or personal, this was considered insufficient.</p>	Paragraph 1, 6 and 9	13.08.2018	Investigation referral – Due to the nature of the allegations and the complaint relating to conduct towards an officer, this is considered sufficiently serious to warrant investigation. Meetings have been scheduled for 18 th September 2019 for the start of the investigation.
COM 264	Parish	27.07.2019	The complainant advises that both yourself and Councillor Singer have acted in a way which breaches the Code of Conduct. The complaint describes the erecting of signs and unlawful road closures and restrictions on a public road adjacent to your home. This conduct and taken place since July 2018 and continues to the present day. The Complainant feels that this has been detrimental to members of the village, particularly those attending services at the local Church. The Complainant raised concerns during a Parish Council Meeting but was not satisfied with your response.	Paragraphs 1, 2 and 3		Member response received – Under consideration by the Governance Solicitor.
COM 265	Town	26.07.2019	A complaint was made against two Councillors relating to their conduct at a Council Meeting on 8 July 2019. The Complainant attended the meeting to raise his concerns about a letter sent by the Town Council to grave owners regarding the removal of memorial items on graves. The Complainant explained that this was a very emotive matter for him. It is alleged that whilst the Complainant was	Paragraphs 4.1.1.	11.08.2019	Local Resolution - The Complainant is offended by the alleged conduct of the Members in what was a highly sensitive issue which should be dealt with sympathetically and with respect.

			speaking he noticed the Members rolling their eyes, shaking their heads, smiling and smirking inappropriately. He alleges that one of the Members 'muttered rather loudly under her breath' that she disagreed with his comments that the reasoning behind the issue was financial. The Complainant states that he was offended by this conduct and felt it was entirely unacceptable. When leaving the meeting, the Complainant approached the Members and asked them to keep in mind how emotive the subject matter was. The Complainant alleges that the Members responded to him by stating that the Complainant should consider that 'they also have family members at that cemetery'.			The Complainant and the Members give differing accounts of the incident. Matters such as this are difficult as they centre predominantly around a person's perception of a situation. In their response to the complaint, the Members state that they see no basis for the allegations made by the Complainant. They state that they did not act in the way that the Complainant has described. It is recommended that all Councillors are reminded of their obligations under the Member Code of Conduct and to be mindful of how their actions/behaviour may be perceived. The Clerk is invited to liaise with the Monitoring Officer to arrange training accordingly.
COM 266	Town	26.07.2019	The complaint relates to an incident which took place at the Pavilion where the Complainant was attending with his family for a quiet drink. It was alleged that the Member appeared and was aggressive towards him, the Complainant found this threatening and intimidating.	Not applicable	29.07.2019	Rejected - The complaint relates to the Member in his personal capacity and is therefore outside of the scope of the complainants which can be considered by the Monitoring Officer.
COM 268	County	12.08.2019	The allegations were that the Member attended a steering group meeting on 1 July 2019 and it is alleged that this was done with a view to provoke a reaction. It was alleged that the Member was abusive towards the Complainant. Additionally it is alleged that the Member made put forward a 'false' account of the events on the County Councillor Facebook page. It was alleged that the Member on 6 August 2019 made a false allegation of bullying and intimidation against the complainant to police. No further action was taken on behalf of the Police.	4.3(b), (e) and (h) and (j)	23.08.2019	Local Resolution - The Member has been invited to attend training with the Monitoring Officer within two months with a focus on the use of social media.
COM 270	Parish	19.08.2019	The Complainant states that the Member has been confrontational in relation to the green and flower beds. The Complainant has received a letter from the Council	Paragraphs 1, 2 and 3		Awaiting subject member response.

		<p>stating that the planting of roses is considered hard planting and needs to be removed, the Complainant feels he has been singled out. The Complainant also alleges that recently he has noticed the Member standing outside of his house staring towards the window and when the Member has been asked what is wanted, the Member has shrugged and walked away. The complainant feels that this is an attempt to harass or bully.</p> <p>It is alleged that the Member planted a tree in the in middle garden and that the Member informed residents that the only house the tree would affect is the Complainants house and that he was fully on board with the proposal. The Complainant did not agree with the planting.</p> <p>The Complainant also details issues around parking in the locality which relate to a linked complaint (COM 264).</p>			
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