



## **Standards Committee**

**Date** Tuesday 17 December 2019  
**Time** 10.00 am  
**Venue** Committee Room 1A , County Hall, Durham

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### **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 5 September 2019 (Pages 3 - 4)
4. Standards Committee Hearing Panel - Alleged Breaches of Code of Conduct - COM211-213, COM223 and COM236 (Pages 5 - 26)
5. Code of Conduct Update (Pages 27 - 38)
6. Annual Report of the Standards Committee 2018/2019 (Pages 39 - 46)
7. Review of Member Code of Conduct/Code of Practice for Members and Officers dealing with Planning Matters (Pages 47 - 52)
8. National Picture - Standards Update (Pages 53 - 58)
9. 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  
9 December 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

**Parish and Town Councillors**

Councillors T Batson and R Harrison

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**Contact: Jill Errington**

**Tel: 03000 269 703**

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**DURHAM COUNTY COUNCIL**

**STANDARDS COMMITTEE**

At a Meeting of **Standards Committee** held in Committee Room 1A - County Hall, Durham on **Thursday 5 September 2019 at 10.00 am**

**Present:**

**Councillor B Kellett (Chair)**

**Members of the Committee:**

Councillors J Atkinson, A Bainbridge, E Bell, J Bell, J Clark, M Clarke, E Huntington (Vice-Chair), J Nicholson, A Savory and D Stoker

**Co-opted Members:**

Town Councillor T Batson and Parish Councillor R Harrison.

**1 Apologies for Absence**

There were no apologies for absence.

**2 Declarations of Interest**

There were no declarations of interest.

**3 Minutes**

The Minutes of the meeting held on 7 June 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).

Councillor E Bell referred to paragraph 10 of the report and asked what the review meetings were referred to under sub-paragraph c. K Coulson-Patel, Governance Solicitor replied that she would make further enquiries of Devon County Council about the review meetings.

The Governance Solicitor informed the meeting that the cases referred to in the report demonstrated the creativity of Council's in the delivery of more broad sanctions.

**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 Review of Employee Code of Values, Behaviours and Conduct - Gifts and Hospitality**

The Committee considered a report of the Head of Legal and Democratic Services regarding proposed revisions to the Employee Code of Values, Behaviours and Conduct on Section 5.10 Gifts and Hospitality (for copy see file of Minutes).

The Governance Solicitor informed the Committee that 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 Gifts and Hospitality.

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.

Councillor Stoker referred to 'short notice' in Paragraph 13 of the report and suggested that the term short notice should be clearly defined. Councillor Stoker also referred to 'specific circumstances' in the Code and suggested that some examples be given of such special circumstances.

The Governance Solicitor undertook to provide clarity on both of these matters.

**Resolved:**

That the proposed changes be considered by the Constitution Working Group prior to consideration by full Council.

**6 Code of Conduct Update**

The Committee noted a report of the Head of Legal and Democratic Services 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**

17 December 2019

**Standards Committee Hearing Panel  
Alleged Breaches of Code of Conduct  
COM211-213, COM223 and COM236****Report of Helen Lynch, Head of Legal and Democratic Services and  
Monitoring Officer****Electoral division(s) affected:**

None.

**Purpose of the Report**

- 1 To inform Members of the outcome of a Standards Committee Hearing Panel in considering and determining complaints concerning the alleged conduct of Councillor David Farry of Ferryhill Town Council.

**Executive summary**

- 2 In accordance with the Council's Local Determination Procedure a Standards Committee Hearing Panel (the Panel) was convened to consider alleged breaches of the Ferryhill Town Council Code of Conduct for Members in respect of Councillor David Farry (the Member).
- 3 The Panel considered the allegations and report of the Investigating Officer. The Panel had the benefit of the representations of the Member, the Investigating Officer and the Independent Person.
- 4 The Panel concluded that Councillor Farry had breached the Code of Conduct and imposed sanctions as detailed in the Decision Notice.

**Recommendation**

- 5 Members of the Standards Committee are recommended to note the outcome of the Standards Committee Hearing Panel.

## **Background**

- 6 On 17 September 2019 a Standards Committee Hearing Panel (the Panel) was convened to consider allegations that Councillor David Farry (the Member) had breached the Ferryhill Town Council Code of Conduct (the Code).
- 7 The allegations related to the following paragraphs of the Code:
1. He/she shall behave in such a way that a reasonable person would regard as respectful.
  2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
  6. 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.
- 8 The Panel considered a total of five complaints, three of which were considered collectively, each of which are outlined below.
- 9 A collective complaint was considered in respect of the Member's conduct at the Lighting of the Beacon of Hope Service at Ferryhill Town Hall (COM211-COM213). It was alleged that the Member displayed unprofessional conduct, he appeared to be intoxicated at the event and did not fully complete his Mayoral duties as detailed in the Order of Service nor was he wearing his Mayoral Chains of Office.
- 10 A second complaint (COM 223) alleged that on 4 January 2019 the Complainant received a call from the Member, where the Member was said to have been verbally aggressive and implied that the Complainant was stupid.
- 11 The third complaint considered by the Panel was in respect of allegations of harassment, bullying, discrimination and victimisation by the Member towards the Clerk (COM236). It was alleged that the Member was out to destroy him as a person by making malicious and unjustified statements that caused harm to his reputation.
- 12 The Panel considered the allegations and determined that the Code had been breached in respect of each complaint. A copy of the Decision Notice is shown at Appendix 2.

- 13 The Panel considered the sanctions and imposed the following:
- (a) In respect of COM211 – COM213 the Panel determined that the Member should be censured by the Panel in relation to his conduct at the Beacon Lighting Event.
  - (b) In respect of COM223 and COM 236 the Panel directed that the Member completes training on the Code of Conduct and in particular Member/Officer relations. The Member was also directed to provide written apologies to the Complainants.
- 14 The Panel recommended that the Member is removed from the Personnel Sub-Committee (or equivalent) until such time the issues relating to the Clerk are resolved.
- 15 The Panel noted the Independent Person's recommendation for a root and branch review of all Town Council Policies and Procedures.
- 16 As a comprehensive review of all policies and procedures had taken place in March 2019, the Acting Clerk in consultation with the Monitoring Officer agreed that the policies pertinent to the complaint would be reviewed as follows:
- (a) Filming and Recording Council meetings (with particular reference to recording meetings other than Council meetings);
  - (b) Member and Officer Relations;
  - (c) Officer Code of Conduct;
  - (d) Bullying and Harassment;
  - (e) Capability;
  - (f) Disciplinary; and
  - (g) Dismissal.
  - (h) Grievance
- 17 At the meeting on 20 November 2019, the Town Council reviewed and adopted updates to the following policies; Filming and Recording Council meetings, Member and Officer Relations, Officer Code of Conduct, Bullying and Harassment and Stress. The remaining policies will be considered at the next Council meeting on 11 December 2019.
- 18 In accordance with the sanctions imposed a letter of Censure was published on the Council's website shown at Appendix 3.
- 19 The Member confirmed that he had provided a written apology to the Complainants and that a copy is to be read onto the public record at the meeting of the Town Council. A copy of the wording of each apology is shown at Appendix 4.

20 The Member attended and completed code of conduct training with the Monitoring Officer on 20 November 2019.

**Background papers**

- The Council's Local Determination Procedure dated July 2016.
- Investigation Report of the Governance Solicitor completed 20 July 2018.
- Decision Notices dated 19 December 2017, 29 March 2018 and 30 July 2018.

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**Contact:** Kamila Coulson-Patel Tel: 03000 269674

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## **Appendix 1: Implications**

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### **Legal Implications**

The Council has a duty under section 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.

### **Finance**

None.

### **Consultation**

None.

### **Equality and Diversity / Public Sector Equality Duty**

None.

### **Climate Change**

None.

### **Human Rights**

None.

### **Crime and Disorder**

None.

### **Staffing**

None.

### **Accommodation**

None.

### **Risk**

None.

### **Procurement**

None.

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**Appendix 2: Decision Notice of the Standards Committee Hearing Panel**

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# **DECISION NOTICE**

## **Standards Committee Panel Hearing COM 211-113, COM 223, 236**

Subject Member: Councillor David Farry

Standards Committee members:

Chair: Councillor Bill Kellet

Member: Councillor Terry Batson

Member: Councillor David Stoker

Independent Person: John Dixon-Dawson

### **Preliminary Information**

The Governance Solicitor considered complaints from Ms. Angela Devine, Miss. Simone Devine, Mr. Brian Gibson (COM 211-213), Councillor Carole Atkinson (COM 223) and Mr. Derek Snowball (COM 236) concerning the alleged conduct of Councillor David Farry of Ferryhill Town Council, in accordance with Durham County Council's Procedure for Local Assessment of Complaints ("the Procedure") and determined that the complaints should be referred for investigation.

COM 211-213 was referred for investigation on 3 January 2019. COM 223 was then referred for investigation to be considered jointly with COM 211-213 on 6 February 2019. On 13 March 2019 COM 236 was also referred to be considered as part of the joint investigation.

### **COM 211-213**

Three allegations were made in relation to the Member's conduct at the Lighting of the Beacon of Hope Service at Ferryhill Town Hall which was held on 11 November 2018.

In COM 211 it was alleged that the Member attended the event under the influence of alcohol. It was alleged that the Member displayed unprofessional conduct and that he did not fully complete his Mayoral duties as detailed in the Order of Service nor was he wearing his Mayoral Chains of Office.

In COM 212 it was alleged that the Member displayed appalling behaviour during the service, it is alleged that the Member talked with his party and appeared under the influence of alcohol. The Complainant states that this behaviour was totally inappropriate and disgraceful, and that she would expect more of someone who holds public office. The Complainant notes that the Mayor or a representative of the Town Council featured in the Order of Service, but this duty was not fulfilled which she found to be unprofessional.

In respect of COM 213 it is accepted that the Complainant did not attend the Service but has reported the complaints made to him. He reports that the service began at 6:45pm, the Member had been asked to attend the Town Hall for 6:40pm. The Member arrived late at 6:50pm and it was reported that he was unsure of his feet and incapable of talking properly because of the excessive drinking. A member of staff leaned the member against the garden wall and asked the service to proceed. The photographer asked the Member where his Chain of Office was and was told it was in the car. The staff who were in attendance deemed it too dangerous to ask the Member to light the beacon and instead this was carried out by an officer. The Complainant finds the conduct totally unacceptable, that the Member showed a total lack of respect for the people of Ferryhill and brought the Council into disrepute.

### COM 223

It was alleged that on 4 January 2019 the Complainant received a call from the Member, during the call he enquired why he had not been informed about the working arrangements of an Officer of the Council. The Complainant explained that it was not her responsibility to keep him informed about the arrangements, it alleged that the Member became very aggressive stating that he had been told that it was the Complainant's duty to keep him informed. It was alleged that the member continued to be very verbally aggressive and said that he would "make sure that the Complainant has no further contact with HR". The Complainant believes that the Member was implying that she was stupid. The Complainant ended the call and states that she was left shaken by the aggressive manner of the Member.

### COM 236

The Complainant is the Clerk to the Town Council and the Member subject to the complaint is the Chairman and Mayor of the Town Council. The Complainant alleged that he has been subject to harassment, bullying, discrimination and victimisation by the Member. The Complainant reports that he feels there have been clear signs that the Member is out to destroy him as a person by making malicious and unjustified statements that have caused harm to his reputation. The Complainant states that the actions of the Member have caused him serious humiliation, harassment, disruption and at times he considers to be a form of bullying. The Complainant reports that the alleged behaviour has been witnessed at meetings of the Council by other Councillors, members of the public, press and officers of the Council.

## **The Code of Conduct for Ferryhill Town Council**

The relevant paragraphs of the Member Code of Conduct for Ferryhill Town Council are as follows;

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations:

- 1. He/she shall behave in such a way that a reasonable person would regard as respectful.*
- 2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.*
- 6. 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.*

## **Investigation**

The Monitoring Officer appointed Mr Matthew Lewin of Cornerstone Barristers as the Investigating Officer. He concluded that a breach of the Code of Conduct had occurred in respect of all complaints (with the exception of COM213 as the complainant was not present at the Beacon Lighting Ceremony), made against Councillor Farry. A Hearing Panel of the Standards Committee met on 17 September 2019 to consider the complaints.

## **Hearing to be public or private**

The Investigating Officer and Councillor Farry were invited to make representations on whether the Hearing should be heard in public or private. The Investigating Officer made no representation. Councillor Farry submitted that the Hearing should be heard in public. The Independent Person made no representation. The Monitoring Officer advised the Panel that Mr. Derek Snowball, the Complainant of COM 236, had previously indicated his view that the Hearing should be heard in public. The Panel therefore decided to hold the Hearing in public. The Monitoring Officer advised that some documents within the Hearing papers were sensitive and should remain confidential. The Panel might need to convene in private if the parties wished to make particular reference to them.

## **Investigating Officer's Report**

The Chair invited the Investigating Officer to present his report and address the issue of whether there had been a breach of the Code of Conduct. The Investigating Officer confirmed that he had no witnesses to call. Instead he directed the Panel to his investigation report and highlighted the list of witnesses who he had interviewed as part of his investigation.

The Investigating Officer addressed issues raised in advance of the hearing by Councillor Farry regarding his report. The Investigating Officer explained his reasons for not interviewing the Acting Town Clerk as part of his investigation.

He also responded to a question from the Panel by assuring the Panel that his findings were not influenced by the emotions of the Complainants during his investigation. Mr Lewin also explained the professional standards that he is required to uphold as a barrister.

The Investigating Officer asserted that he did not believe any of the complaints to be politically motivated. In respect of COM 211-213, the Panel were reminded that some of the Complainants were members of the public and so no political gain could be attained from making the complaints. The Investigating Officer stated that he felt that the Complainants had good reason for making the complaints and that he believed their accounts to be honest and truthful. In relation to COM 213, the Investigating Officer confirmed that he did not place any weight on Mr. Gibson's evidence due to him not attending the Service and his evidence being third-hand. The Investigating Officer made no finding in relation to the allegation that Councillor Farry had talked through the event as the accounts of the complainants were contradictory on this point.

In respect of COM 223, the Investigating Officer again refuted the assertion that the complaint was politically motivated. He explained that in his opinion, Councillor Atkinson was not acting out of malice or bad faith when making the complaint. The Investigating Officer found that Councillor Farry did act disrespectfully towards Councillor Atkinson and whilst Councillor Farry may have had good reason for his belief that the proper procedure had not been followed, this could not justify behaving disrespectfully towards a fellow elected member. The Investigating Officer found Councillor Atkinson to be a sincere and honest witness. Those who spoke with Councillor Atkinson following the incident commented that she sounded uncharacteristically shaken. Additionally, the Investigating Officer found the allegation to be consistent with a follow-up email which Councillor Farry sent to Councillor Atkinson which the Investigating Officer found to be unnecessarily condescending in tone. The Investigating Officer did not accept Councillor Farry's version of the incident in which he claimed that Councillor Atkinson was shouting during the phone call and found this to be highly unlikely. As this was the only incident that was brought to the attention of the Investigating Officer, he could not conclude that there was a pattern of behaviour that amounted to bullying. However, the Investigating Officer was satisfied that Councillor Farry acted disrespectfully, resulting in a breach of paragraph 1 of the code.

Regarding COM 236, the Investigating Officer corrected a typing error within his report. The error appeared at paragraph 37 of the report. He confirmed that his stance in respect to COM 236 was that there was no evidence of bullying prior to July 2018. However, he was satisfied that after this date, Councillor Farry's conduct toward the Town Clerk was indeed bullying. The Panel questioned how robust behaviour could be distinguished from bullying. The Investigating Officer agreed that it was often difficult to distinguish between the two, however in this case, he considered that bullying took place. The Investigating Officer played a section of a recording of a meeting between Councillor Farry (accompanied by another Councillor) and the Town Clerk. This recording is referenced in the Investigating Officer's report. After the recording was played, the Investigating

Officer explained that in his opinion, the recording shows the Town Clerk being bullied. The Investigating Officer found that during this meeting, which lasted two hours, the two Councillors subjected the Town Clerk to a series of hostile questions and accusations, taunted him, cut him short when trying to speak and were unwilling to listen to his concerns about the lack of support he had received on his return to work. The Investigating Officer commented that his recording was perhaps the most revealing evidence of the relationship between Councillor Farry and the Town Clerk and showed clear evidence of bullying.

The Independent Person asked the Investigating Officer whether the meeting was private and whether it was normal procedure to record meetings such as this. The Investigating Officer explained that the meeting was indeed a private meeting. He was unsure as to whether it was standard procedure to record the meetings but commented that it is not unusual for meetings to be recorded. The Investigating Officer was unsure as to whether all parties had given consent for the meeting to be recorded. The Investigating Officer concluded by expressing the view that Councillor Farry had breached the Code of Conduct in respect of all complaints.

### **Response to the Investigating Officer's Report**

The Standards Committee Panel then invited representations from Councillor Farry to address the elements of the Investigating Officers report which he disputed and to address the issue of whether there had been any breaches of the Code of Conduct.

In response to COM 211-213 a short statement was read to the Panel. Councillor Farry was not wearing his Mayoral chains and therefore he was not acting in his official capacity at the time and therefore not bound to adhere to the code of conduct. He referred to the Order of Service, which said that the "Mayor (or his representative) would make the speech" Therefore, there was no expectation that he would be making the speech. He also said that he had not agreed to light the Beacon. He had been shown what was involved and he would never have agreed to light it.

Councillor Farry explained that he had originally intended to attend the service, however due to personal circumstances his plans changed. Councillor Farry went on to explain that his plans changed again and that he attended towards the end of the service in what he described as his personal capacity. He stated that it was a cold dark night and that witnesses would not have been able to properly see him in these conditions. He stated that he had been drinking alcohol that day but was not drunk. He brought the Panel's attention to a medical note which explained why he may have appeared to have been unsteady on his feet and the witness statements submitted in support of his case that said he was not drunk.

The Independent Person questioned whether Councillor Farry thought that as Mayor, he should be held to a higher standard than other elected members.

Councillor Farry agreed with this.

Councillor Farry summarised the facts in relation COM 223 as he believed them to be. He refuted the allegations made by Councillor Atkinson and denied acting aggressively and disrespectfully towards her. Councillor Farry suggested that it was in fact Councillor Atkinson who was the aggressor and that he had been “unable to get a word in edgeways”. He said there was no evidence to support the allegations, which he considered to be politically motivated.

In respect of the third complaint, COM 236, Councillor Farry explained that the meeting featured on the recording was put in place to support the Town Clerk’s return to work. He went on to explain that it was recorded with the consent of all parties and for the purpose of the Town Clerk’s safeguarding.

The Panel asked Councillor Farry to describe his approach in that meeting. Councillor Farry said that he felt that he was supportive and compassionate during the meeting and refutes the allegation that bullying behaviour took place. Councillor Farry explained that prior to the meeting he had sought advice from Nereo on how to conduct the meeting. The Panel questioned why Councillor Farry conducted the meeting given that he was aware that the Town Clerk had accused him of bullying. Councillor Farry was asked whether he had any training on dealing with mental health and whether he was properly equipped to conduct the meeting. Councillor Farry explained that he had handled the meeting to the best of his ability and did not believe that any of his actions amounted to bullying.

The Independent Person questioned the purpose of the meeting. Councillor Farry explained that his intentions behind the meeting were to ensure that the Town Clerk was alright to return to work and to keep track of Council business. The Independent Person and the Panel then referred to a discussion that was heard on the recording about a mentor for the Town Clerk. Additionally, they questioned why Councillor Farry would not allow the Town Clerk to choose his own mentor. Councillor Farry responded by explaining that the idea of a mentor came from advice he had received from HR at Durham County Council. Additionally, he asserted that he would not have had a problem with the Town Clerk choosing his own mentor however he had made it clear to him that he did not want a mentor.

### **Representations from the Independent Person**

The Independent Person explained that he considered that this had been a particularly difficult case to unravel and that he felt that the Investigating Officer had done a good job of disentangling the issues. He considered that the Investigating Officers report was thorough and addressed the relevant issues. He explained that he was considering the case as an objective outsider, applying a test of reasonableness and the balance of probabilities. He felt that although he had some sympathy for Councillor Farry, ultimately, he considered that there had been breaches to the code.

Regarding the allegations relating to the Lighting of the Beacon of Hope Service, he considered that as Mayor, Councillor Farry was held to a higher standard than other elected members. He felt that it would have been reasonable to expect Councillor Farry to participate in the event as Mayor. He recognised that there was a last-minute change in circumstances which meant that Councillor Farry's role changed. However, Councillor Farry should have ensured suitable alternative arrangements were in place to account for his absence which he did not do.

In relation to the allegations of disrespect and bullying, the Independent Person was concerned as to the basis for recording the meeting that they had listened to. One of his concerns was that it was unclear whether consent to the recording had been given. Additionally, he felt that the basis of meeting not clear. He commented that the meeting appeared initially to have been an update on Council business but moved on the Clerk's personal circumstances. The Independent Person had concerns regarding discussions concerning the Town Clerk's mental health in that environment.

### **Decision on whether there has been a breach on the Code of Conduct**

The Standards Committee Hearing Panel having considered the papers before them and the representations made at the hearing, upheld the Investigating Officers findings and decided that Councillor Farry had breached Paragraphs 1, 2 and 6 of Ferryhill Town Council's Code of Conduct for Members.

In respect of COM 211-213, the Panel found Councillor Farry to have been acting in this official capacity as Mayor at the time of the incidents. Councillor Farry stated that he attended the service as a private individual. However, members of the public were aware of his position. The Order of Service and earlier press release created the expectation that the Mayor would be in attendance. It was therefore reasonable for people to assume that he was attending as Mayor. The Panel found that there was no evidence to suggest the complaint was politically motivated. It noted that at least two of the complaints were submitted by members of the public. There was no evidence that the complainants had conspired to bring the complaint.

The Panel also noted that there were inconsistencies in Councillor Farry's account. On the one hand, he was not drunk or unstable but on the other, he presented evidence as to why he was unstable. The Panel consider it of note that none of those organising the event were aware of the change of circumstances. The Panel found that on the balance of probabilities, Councillor Farry was drunk and that consequently paragraphs 1 and 6 of the Code of Conduct had been breached.

In respect of COM 223, the Panel did not accept Councillor Farry's account of the incident. They noted that in Cllr Farry's email to Cllr Atkinson following the phone call, he references the fact that Cllr Atkinson put the phone down on him, but he also thanks her for her time. This suggests that he was able to get his point across during the phone call. The Investigating Officer explained to the

Panel why he considered Cllr Atkinson's account to be plausible. A Council Officer described Councillor Atkinson to have been uncharacteristically shaken following the phone call.

The Panel also considered the tone of the email from Cllr Farry to Cllr Atkinson to be threatening and aggressive. Even if Cllr Atkinson had been acting without the relevant authority, the Panel do not think that this justifies the tone used in the email. Whilst Cllr Atkinson and Cllr Farry have differing political viewpoints, the Panel had not seen or heard any evidence to support Cllr Farry's assertion that this complaint is politically motivated. Therefore, having considered the accounts of the phone call together with the tone of the follow up email, the Panel found that Councillor Farry was disrespectful towards Cllr Atkinson and that paragraph 1 of the Code was breached.

In considering this complaint, the Panel placed the greatest weight on the extract of the meeting on 22 March 2019, which they listened to. Cllr Farry told the Panel that he thought his manner in the meeting was caring and compassionate. However, the Panel considered his approach to be persistent, leading to dominance. He talked over the Town Clerk repeatedly.

The Panel noted inconsistencies in Cllr Farry's account. He was asked why he had continued with the meeting at the point at which the Town Clerk raised concerns regarding the support given to him since his return to work. Cllr Farry told the Panel that there was no indication that the Town Clerk was struggling. He explained that the Town Clerk worked a shorter phased return to work than initially suggested and he was on top of his workload.

However, Councillor Farry also stated that there were concerns from Senior Council Officers and other Councillors regarding the Town Clerk's health. These concerns are also cited in the opening paragraph to his letter to the Town Clerk dated 22 March. That letter was handed to him at the meeting on 22 March so it must have been prepared in advance. The Panel noted that the letter was drafted by an Advisor to the Council. However, the Panel found that it was premature to conclude that the Town Clerk was not fit to work/require him not to attend work until an Occupational Health Report had been obtained.

The Panel found that Cllr Farry will also have been aware of the Town Clerk's position from his letter to the Monitoring Officer (which was copied to Cllr Farry as part of the complaints process) dated 14 February 2019. In any event, the Panel considered that having raised concerns and asking that the Town Clerk see an Occupational Health Specialist, it was inappropriate to continue with the meeting on 22 March 2019 which lasted for about 2 hours.

The Panel agreed with the Investigating Officer's assessment of the meeting at para 46 of his report. They agreed that the Town Clerk was subjected to a series of hostile questions and accusations. He was talked over, taunted, cut short and not listened to. Therefore, the Panel therefore found that Councillor Farry breached paragraph 2 of the Code.

## **Sanctions**

The Monitoring Officer read to the Panel the sanctions that were available to them. In accordance with the Council's Local Determination Procedure, the Standards Committee Panel invited representations from the Investigating Officer, Councillor Farry and the Independent Person as to whether action should be taken and if so, what action should be taken.

The Investigating Officer made no representations in respect of sanctions.

Councillor Farry commented that he was disappointed with the outcome of the Hearing, but he understood the sanctions available to the Panel and would abide by those imposed.

The Independent Person felt that the sanctions should be proportionate to reflect the allegations of each complaint. He felt that in relation to COM 211-213, training for Councillor Farry may be beneficial. He considered that for COM 223 and COM 236, written apologies were required. He also commented that there were clearly some systematic problems within the Council and that a root and branch review of the Council's policies should be undertaken.

### **COM 211 – 213**

The Panel determined that Cllr Farry should be censured by the Panel in relation to his conduct at the Beacon Lighting Event

### **COM – 223 & 236**

Councillor Farry should complete training on the Code of Conduct and in particular Member/Officer relations

Councillor Farry should provide written apologies to the Cllr Atkinson and Mr Snowball (copied to the Monitoring Officer)

### **COM 236**

The Panel recommend to Ferryhill Town Council, that if Cllr Farry remains a member of the Personnel Sub-Committee (or equivalent), he is removed from that Committee until such time the issues relating to the Town Clerk are resolved.

The Panel noted the Independent Person's recommendation that there is a root and branch review of all Town Council Policies and Procedures. The Hearing Panel cannot compel the Town Council to do this or impose it by way of sanction. However, the Panel asked the Monitoring Officer to refer the Independent Person's recommendations to the Town Clerk for consideration by the Council.

They also requested that the Monitoring Officer report to the next meeting of the Standards Committee on 17 December 2019 as to whether the sanctions have been complied with.

**Right of Appeal**

There is no right of appeal from this decision which is final

Councillor Bill Kellett

.....  
**Chair of the Standards Committee Panel**

27 September 2019

.....  
**Date**

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## **Appendix 3: Letter of Censure**

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Contact: Grace Taylor  
Direct Tel: 03000 267480  
email:  
Your ref:  
Our ref: GT / 020102



Councillor David Farry  
1 Laburnum Road  
Ferryhill  
County Durham  
DL17 9NH

25 September 2019

Dear Councillor Farry

**Re - COM 211-213  
Councillor D Farry Letter of Censure**

I write further to the Standards Committee Hearing Panel on 17 September 2019, which considered a number of complaints against you. This letter relates to complaints COM 211-213

The Monitoring Officer received three complaints regarding your behaviour at the Lighting of the Beacon of Hope Service at Ferryhill Town Hall on 11 November 2019. It was alleged that you attended the service whilst under the influence of alcohol. It was further alleged that you did not complete your Mayoral duties as detailed in the Order of Service nor were you wearing your Mayoral Chains of Office.

The complaints were referred for investigation on 3 January 2019 and the Hearing Panel was convened on 17 September 2019 to consider the Investigating Officers report, your written response to the report and supporting documentation and representations made during the hearing.

The Panel found that you were acting in your official capacity as Mayor at the Beacon Lighting Ceremony. It did not accept your account that you attended the service as a private individual. Members of the public were aware of your position and there was an expectation arising out of material published in advance of the ceremony that you would be in attendance as Mayor. It was therefore reasonable for people to assume that you were attending as Mayor regardless of whether you were wearing the Mayoral Chains. The Panel found that there was no evidence to suggest the complaint was politically motivated or that the complainants had conspired to bring the complaints.

**Legal & Democratic Services, Resources**

Durham County Council, County Hall, Durham DH1 5UL, DX722100 Durham 16  
Main Telephone 03000 260 000  
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The Panel also noted that there were inconsistencies in your account. On the one hand, you were not drunk or unstable but on the other you presented evidence as to why you were unstable. The Panel noted in particular that none of those organising the event were aware of the change of circumstances, which meant you were no longer able to attend the event. The Panel found that on the balance of probabilities, you were drunk. Accordingly, you were found to have breached paragraphs 1 and 6 of the Code of Conduct. The Panel considered that your behaviour at the event could reasonably be regarded as disrespectful and brought your office as Mayor into disrepute.

The Panel considered that the public expect a higher standard of behaviour from the Mayor than other elected Members and the behaviour complained of, fell short of what was expected from you both as Mayor and an elected Member.

The Panel were disappointed that they were given cause to be so critical of your behaviour and decided to censure you.

Please note that this formal censure will be published on the Durham County Council website.

Yours sincerely

Councillor B Kellett  
Chair of the Standards Committee Hearing

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## **Appendix 4: Wording of Apology**

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Dear Mr Snowball

The outcome of the Hearing Panel requires me to send you a written apology.

I do not consider my actions to have been of a bullying nature however if you perceived them to be so then I apologise for any distress this may have caused you. That was never my intention.

Yours sincerely  
Cllr David Farry

Dear Cllr Atkinson

The outcome of the Complaint Hearing Panel requires me to offer you a formal apology.

It was never my intention to cause any offence or upset but if my actions were perceived as such then I apologise accordingly.

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**Standards Committee**

**17 December 2019**

**Code of Conduct Update**

**Ordinary Decision**



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**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 an update on the activity of the code of conduct complaints being considered in accordance with the council's Local Assessment Procedure dated October 2018.
3. The reports also details the training which has been delivered to promote and maintain high ethical standards within the authority.

**Recommendation**

4. It is recommended that the Members of the Standards Committee note the report.

## **Complaints**

5. There has been a total of 11 formal complaints in the last period. Of the complaints received, they relate to allegations against a total of 16 Members and all Members of one Council. One complaint has been rejected on initial assessment on the basis that the Member was not acting in their official capacity at the time of the complaint.
6. 14 decision notices have been issued between the period of 28 August 2019 and 9 December 2019. The outcome of each complaint is shown in Appendix 2.
7. 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.

## **Training**

8. The Monitoring Officer has delivered training to two Councillors in respect of Code of Conduct training with one focusing on Member/Officer relations and the other on the use of social media.
9. The Governance Solicitor delivered a general code of conduct update to Pelton Parish Council following the acceptance of an earlier invitation.

## **Main implications**

### *Legal Implications*

10. The Council has a duty under section 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.

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**Contact****Kamila Coulson-Patel****Tel: 03000 269674**

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## **Appendix 1: Implications**

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### **Legal Implications**

As outlined in the report.

### **Finance**

There are no financial implications arising out of the report.

### **Consultation**

There are no consultation implications arising out of the report.

### **Equality and Diversity / Public Sector Equality Duty**

There are no equality and diversity implications arising out of the report.

### **Climate Change**

There are no climate change implications arising out of the report.

### **Human Rights**

There are no Human Rights implications arising out of the report.

### **Crime and Disorder**

There are no Crime and Disorder implications arising out of the report.

### **Staffing**

There are no staffing implications.

### **Accommodation**

There are no accommodation implications.

### **Risk**

There are no risk implications arising out of the report.

### **Procurement**

There are no procurement implications.

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## Appendix 2: Code of Conduct Complaints Activity

Ref	Council	Date	Allegations	Paragraphs of the Code	Decision Notice	Outcome/Status
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>	1 and 6	17.09.2019	The Panel found the Councillor to have been acting in his official capacity as Mayor at the time of the incidents. The Panel also noted that there were inconsistencies in the Councillor's account. The Panel found that on the balance of probabilities, the Councillor was drunk and that consequently paragraphs 1 and 6 of the Code of Conduct had been breached. The Panel determined that the Councillor should be censured by the Panel in relation to his conduct at the Beacon Lighting Event
COM 223	Town	09.01.2019	<p>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.</p>	1 and 2	17.09.2019	The Panel did not accept the Councillor's account of the incident. The Panel also considered the tone of the email from the Councillor to the complainant to be threatening and aggressive. Therefore, having considered the accounts of the phone call together with the tone of the follow up email, the Panel found that the Councillor was disrespectful towards the complainant. The Panel recommended that the Councillor should complete training on the Code of Conduct and in particular Member/Officer relations and the Councillor should provide a written apology to the Complainant.

Ref	Council	Date	Allegations	Paragraphs of the Code	Decision Notice	Outcome/Status
COM 236	Town	15.02.2019	<p>The Complainant alleges that the Councillor has behaved in a manner which is contrary to the code, specifically that:</p> <ul style="list-style-type: none"> <li>• He shall behave in such a way that a reasonable person would regard as respectful.</li> <li>• He shall not act in a way which a reasonable person would regard as bullying or intimidatory.</li> <li>• 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.</li> </ul>	1, 2 and 6	17.09.2019	The Panel agreed that there was clear evidence of bullying. The Panel recommended that the Councillor should provide a written apology to the complainant and the Panel recommend to Ferryhill Town Council, that if the councillor remains a member of the Personnel Sub-Committee (or equivalent), he is removed from that Committee until such time the issues relating to the Town Clerk are resolved.
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.	1 and 2	26.09.2019	No further action - The Monitoring Officer, in consultation with the Independent Person considers that there has been no breach of the code. The allegations which involved the member's conduct outside of Council meetings occurred when the Member was acting in his capacity as a private individual and so he was not bound by the code. He was bound by the code during meetings but the conduct did not amount to bullying/disrespectful behaviour.
COM 249, COM 251 and COM 254.	Parish	08.04.2019	The Complainant alleges that the Member had been dishonest in his dealings as treasurer for the Allotment Association since his appointment to the role in 2017. It has been alleged that the Complainant received undue pressure from the Member to carry out allotment matters. The Complainant alleges that because she refused to assist the Member in 'covering up' these discrepancies, he became aggressive towards her. The Complainant also accused the Member of failing to make a declaration of interest at a Parish Council Meeting relating to the Allotment Site. The Complainant feels that the Member failed to adhere to the process laid out by the Parish Council when dealing with allotment issues.	1,2,3,4,5 and 6	16.10.2019	No further action - The Governance Solicitor considers much of the conduct alleged in this complaint, occurred when the Member was acting in his capacity as a private individual. The Member's role with the Allotments Association is an entirely separate role from his position as a Councillor. Regarding the allegation that the Member failed to make a declaration of interest at a Council meeting, it was

Ref	Council	Date	Allegations	Paragraphs of the Code	Decision Notice	Outcome/Status
			<p>The Complainant felt that a proposal put forward by the Member was a personal attack against him. The Member is also accused of seeking to remove the Complainant's voting right at association meetings to manipulate the voting structure. The Complainant states that he believes that the Member may be involved in defrauding the NSALG and an insurer by withholding members' subscriptions that should have been passed to them. The Complainant also accuses the Member of disclosing confidential information.</p> <p>The Complainant describes an incident which allegedly took place on 3 October 2018 during a Parish Allotments meeting. The Complainant states he asked the Member if he could speak privately with him. The Member allegedly then stood up and shouted, 'are you threatening me'. The Complainant felt that this said in a very 'aggressive, threatening and bullying manner'. Another Councillor stood up and shouted at the complainant, 'I want him out of the meeting'. Additionally, the complaint refers to money discrepancies at the Allotment Association when the Member held the role as treasurer.</p>			recommended that all Councillors should have training on this topic. In respect of all other allegations, it was decided that no further action should be taken.
COM 252	Parish	17.04.2019	It is alleged that the Member fabricated a story about the Complainant in an attempt to isolate and discriminate against him. On 14 February 2019, the Complainant received notification from the Clerk of the Parish Council advising that the Member had made a complaint against him. The basis of this complaint was that the Member had been shouted and sworn at during the visit to the allotment. The Complainant alleges that the Member made the complaint with malicious motives to get him censured by the Parish Council and to have him removed from the Allotment Association Committee.	1 2 3 4 5 and 6	16.10.2019	No Further Action – An investigation into the allegations made by the Member has taken place. The decision to not take further action was a decision of the Council, rather than the Member alone, to take no further action in respect of the complaint. The Governance Solicitor is unable to make any finding that the complaint of the Member was in any way malicious and once again notes that the Council appointed the Clerk to carry out the investigation who similarly made no findings that the allegations were malicious in nature.

Ref	Council	Date	Allegations	Paragraphs of the Code	Decision Notice	Outcome/Status
COM 253	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 13<sup>th</sup> 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>	1,2,3,4,5 and 6	03.09.2019	No further action - The Governance Solicitor notes that there was an investigation into the allegations made by the Member. The Clerk presented the investigation report to the Council and it was the decision of the Council, rather than the Member alone, to take no further action in respect of the complaint. The Governance Solicitor considers that it would be unnecessary to carry out a further investigation into the complaint of the Member. The appropriate action was taken in that a complaint was raised with the Council, the Council directed the Clerk to carry out an investigation and the findings of the investigation were for no further action to be taken. The Governance Solicitor is unable to make any finding that the complaint of the Member was in any way malicious and once again notes that the Council appointed the Clerk to carry out the investigation who similarly made no findings that the allegations were malicious in nature.
COM 264	Parish	27.07.2019	The Complainant advises that the Members 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 their home. This conduct had 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 the response.	1, 2 and 3	11.09.2019	No further action - The Monitoring Officer concluded that the Members were not asking in their official capacity as Councillors at the time of the alleged incidents. The Members state that they did not erect the signs/cones because they are Councillors, nor did they allude to their role as Councillors when erecting the signs/cones or at any point when they the signs were in place.

Ref	Council	Date	Allegations	Paragraphs of the Code	Decision Notice	Outcome/Status
COM 269	Town	23.08.2019	The Complainant alleges that the Members have used their positions as Councillors to attempt to tarnish the reputation and hinder the work of the Complainant's company. The allegations include, harassment of current and former employees and residents, derogatory social media posts (made in the Member's capacity as a councillor), the sending of letters on official Council headed paper despite the fact the correspondence was not passed through the appropriate lines of authorisation.	1. , 2, 3, 4 and 5	29.10.2019	Councillor J.- No further action – the background to the complaint related to the Member in his capacity as an employee. In relation to the comments on Facebook, the Councillor confirmed that he received complaints from residents and he signposted where to submit complaints.  Councillor M. - Local resolution - It was considered that by using letterheaded paper for the Council could mislead the public, It was recommended that the Member undergoes training with the Clerk to the Council within two months and confirms that this has been completed to the Monitoring Officer.
COM 270	Parish	19.08.2019	The complaint describes a series of incidents relating to disagreements over the planting of flowers beds (the Councillors accuse the Complainant of planting the flower beds on the village green). The Complainant alleges that on numerous occasions he has noticed one of the Councillors standing outside of his house staring at his front window. This has caused him to feel harassed and intimidated. There are also disagreements relating to the planting of a memorial oak tree on the village green (which is in close proximity to the Complainant's home). The Complainant feels that he was not consulted before the tree was planted.	He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory	07.10.2019	No further action - It was decided that the Councillors had acted appropriately when advising the Complainant about the rose bushes. One of the Councillors gave a reason as to why she often walked past the Complainant's home. Minutes of the Council Meeting showed that prior to planting the oak tree, the council had had no issues regarding objections or utilities.
COM 271	Town	28.08.2019	The Members are alleged to have breached the code of conduct by being racist and discriminatory against the Complainant. The Complainant accuses one member of calling her a 'liar' and of hacking in to one of her Facebook pages. The Complainant accuses the other Member of making offensive comments about her both online and to members of the public in person. The Complainant also accuses him of making a fake Facebook profile 'just to abuse us'.	1	01.10.2019	No further action - There was a lack of evidence to support the Complainant's allegations. Some allegations had already been considered in a previous complaint and so were not considered again as part of this complaint. There was no evidence of racism or discrimination. The Members were

Ref	Council	Date	Allegations	Paragraphs of the Code	Decision Notice	Outcome/Status
						reminded to be mindful of the code of conduct and all social media policies of the Town Council. Members were also reminded of the Public Sector Duty.
COM 273	Town/County	20.09.19	The Complainant alleged that the Members sent a letters to all residents regarding the business premises and this was also posted on Facebook. Since then, the premises have been subject to more vandalism. Members of the public made upsetting and threatening comments on the Facebook post. The Complainant feels the post should have been removed. The Complainant also feels that the Members were not transparent and honest with her regarding their involvement in enforcement matters and that their letter shows an unfair support of the other residents.	3, 5, 6 and 10	14.10.2019	No further action - The Members were responding to complaints that they had received. They felt that they needed to address the complaints under their duty as Councillors. By addressing the complaints, they did not intend to encourage residents to take matters in to their own hands. The Governance Solicitor found that instead, the letter was intended to pacify residents by explaining that their concerns were being listened to and dealt with appropriately.
COM 274	County	23.09.19	The Complaint is made by a lead Councillor on behalf of another six Councillors. It is alleged that the Member administers a public Facebook page. It is alleged that this page has been used as a platform to express offensive language and gives the impression of representing all Councillors from the area. The post stated "this is an absolute disgrace. Taking Christmas from our children? They want crucifying". The Member was asked to take down the post but did not and when a further request was made the Member stated that the post could not be removed as she had deactivated the social media account.	4.3 (j)	14.10.2019	Local Resolution - The Governance Solicitor considers that the Member will benefit from training from the Monitoring Officer which will be combined with the training to be delivered as part of COM 268. The Complainant asserts that the comment is still visible and to resolve this, the Member is to meet with ICT to ensure that the page has been deleted. The name of the page should be changed unless other Councillors are added as administrators. Training was undertaken and completed on 24.10.2019.

Ref	Council	Date	Allegations	Paragraphs of the Code	Decision Notice	Outcome/Status
COM 275	County	23.09.19	The Complainant alleges that the member used her Facebook page to promote incorrect information, failed to amend the incorrect information and has used a separate Facebook page which she administers to give the impression that other Councillors take the same view as her. Additionally, the complaint alleges that the Member has manipulated privileged information given as an Action Partnership Board Member to promote her own personal views and invite people to object to the Town Team proposals.	4.3 (a) (b) (e) (j) (l)	05.11.2019	No further action – The details of the complaint mirrored that of COM 274 which was considered by way of local resolution, namely social media training with the Monitoring Officer. As this training had been completed to the satisfaction of the Monitoring Officer the Governance Solicitor considered that no further action was required in respect of this complaint.
COM 276	Parish	02.10.19	This complaint relates to a previous complaint (COM264) which resulted in no further action being taken. The Complainant upon request was provided with a copy of the Member's responses. The new complaint (COM 276) was received shortly after the decision notice to COM 264 was issued. The complaint relates almost in its entirety to the Members' responses to COM 264. The Complainant takes issue with the responses provided in COM 264 and accuses the Members of lying and trying to "muddy the waters".	1	22.10.2019	Councillor C - No further action was required as there were no new allegations against the Member.  Councillor S – No further action - The Complainant informed the Legal Services of Durham County Council of the Members visit to his home on 15 August 2019. Consequently, a letter was sent to the Member that day informing him that it was not appropriate for him to discuss the matter with the Complainant whilst it is still being considered by the Monitoring Officer. The Councillor accepted that he had attended the home and this was done in an attempt to resolve the matter quickly and amicably. There is no evidence to suggest that on attending the Complainant's home the Member was aggressive, intimidating or disrespectful towards the Complainant.

Ref	Council	Date	Allegations	Paragraphs of the Code	Decision Notice	Outcome/Status
COM 277	Town	24.10.2019	The Complainant states that he has had an allotment for 12 years. Recently, he received a letter regarding his allotment, informing him that he was required to tidy it up. The Complainant asked for three months to be able to carry out the required work. He asked for this timescale due to personal reasons which had made it difficult to find the time to attend to his allotment. The Complainant's wife attended an Allotment Committee Meeting on his behalf, the meeting was around August 2019 and it is alleged that a Member stated "come on now stop lying and tell the truth". It is alleged that a Member pressured the Complainant's wife to disclose his medical condition.	1 and 4		Awaiting comment from the Members.
COM 278	Town	17.10.2019	The Complainant alleges that the Member is knowingly and falsely using a fake identify to post and make comments on Council matters. It is asserted that this has been done to hide her accountability as a local Councillor.	Part 3 - disrepute.		Under consideration by the Governance Solicitor.
COM 280	Town	21.11.2019	It is alleged that the Member was angry and aggressive towards the Member at a public meeting. The Member called the Complainant and two other councillors liars. The Complainant finds the conduct of the Member to amount to bullying. The Member has failed to provide an apology to the complainant.	1, 2 and 6.		Awaiting comment from the Member.
COM 281	County	22.11.2019	It is alleged that the Member attended the property of the Complainant in October 2019 and took pictures of the fence to report to the Council. The Complainant did not have an issue with the reporting of the issue with the fence however the Member posted the images on Facebook without her consent. The Complainant considers that this was an attempt to humiliate her, the images showed her family home and she has been approached by others regarding the Facebook posts.	4.3 (j) - treat others with respect (l) not to disclose information given to them in confidence by another or information acquired which is of a confidential nature without authority or the law required it.		Under consideration by the Governance Solicitor.

## Standards Committee

17 December 2019



## Annual Report of the Standards Committee 2018/2019

### Ordinary Decision

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

#### Electoral division(s) affected:

None

#### Purpose of the Report

- 1 To inform the Council of the work of the Standards Committee during 2018/2019 and to set out the future direction which the Committee intends to take during 2019/2020.

#### Executive summary

- 2 The Standards Committee has continued to promote the principles and values of good governance within the Council and across the County. The Members of the Standards Committee are committed and dedicated to ensuring that high standards of conduct are maintained by all local elected Members.
- 3 This report sets out the progress made by the Standards Committee in 2018/2019 in respect of code of conduct issues for the elected Members within County Durham.
- 4 This report also sets out the training provided to Members as well as the work programme of the Standards Committee to achieve the objective of promoting and maintaining high standards.

#### Recommendations

- 5 It is recommended that:
  - a. the Standards Committee note the report; and
  - b. the report be presented to the County Council.

## **Background**

- 6 Although there is no legislative requirement for Standards Committees to produce an Annual Report, doing so is recognised as good practice. Not only does the report publicise the work of the Committee to the wider general public, it is also a means for the Authority itself to monitor the Committee's work.
- 7 References to Articles in the Council's Constitution in this report are to those that existed during 2018 – 2019. Standards Committee's Terms of Reference are set out in Article 7.

## **Membership of the Standards Committee 2018/2019**

- 8 The Standards Committee is comprised of 11 County Council Members and 2 Parish/Town Council Members as follows:-

### **County Council Membership**

Councillor B Kellett – Chairman

Councillor E Huntington – Vice Chairman

County Councillors J Atkinson, A Bainbridge, E Bell, J Bell, J Clark, M Clarke, J Nicholson, A Savory and D Stoker.

### **Parish and Town Council Representatives**

Councillor Terry Batson is a consultant Arborist and a former Local Government Officer. Councillor Batson is also a Member of Tow Law Town Council.

Councillor Ralph Harrison is a former Member of Chester le Street District Council who continues to serve his local community as a Member of Sacriston Parish Council.

## **Independent Persons**

- 9 Under the Localism Act 2011, the Council was required to appoint one or more Independent Persons to assist in the Standards process.
- 10 The functions of the Independent Persons are:
  - a. They must be consulted by the Authority before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decide on action to be taken in respect of that Member.
  - b. They may be consulted by the Authority in respect of a Standards complaint at any other stage and they may be consulted by a Member or a co-opted member.

- 11 In September 2012 the Council appointed the following persons:
- a. John Dixon Dawson. John is from Peterlee and is currently Head of Post Graduate Programmes at the University of Sunderland Business School. He has a career going back to 1986, which has involved various placements at universities in the North East, four years as a non-Executive Director at an NHS Trust and seven years as a Deputy Town Clerk.
  - b. Peter William Jackson. Peter is from Newton Hall and is retired. Originally from the private sector having fulfilled the roles of Factory Manager, General Manager, Managing Director, Group Technical Executive and Sales Manager. He has also served on the Youth Employment Committee of the Council and the Police Consultative Committee for Durham County Council.
- 12 The Independent Persons were appointed for a four-year term with effect from 25 September 2016 and this is their second term of office.

### **Role of the Standards Committee**

- 13 The Members of the Standards Committee have a common interest in that they believe in principled local politics and value their role as champions of high standards of conduct amongst local politicians.
- 14 In accordance with Article 7 of the Constitution of Durham County Council, the roles and functions of the Standards Committee are as follows:
- a) promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council and Parish and Town Council Members;
  - b) assisting Members and Co-opted Members of the Council and Parish and Town Council Members to observe the Members' Code of Conduct and where appropriate, the Planning Code of Practice;
  - c) advising the Council on the adoption or revision of the Members' Code of Conduct and the Planning Code of Practice;
  - d) monitoring the operation of the Members' Code of Conduct and the Planning Code of Practice;
  - e) advising, training or arranging to train Members and Co-opted Members of the Council and Parish and Town Council Members on matters relating to the Members' Code of Conduct and Planning Code of Practice;

- f) granting dispensations to Members and Co-opted Members of the Council from requirements relating to interests set out in the Members' Code of Conduct and Planning Code of Practice in circumstances where this function has not been delegated to the Monitoring Officer;
- g) the assessment and/or referral for investigation of allegations of misconduct on the part of Members and Co-opted Members of the Council and Parish and Town Council Members, if requested to undertake this function by the Monitoring Officer;
- h) the determination of allegations of misconduct on the part of Members and Co-opted Members of the Council and Parish and Town Council Members;
- i) dealing with any alleged breach by a Member of a Council Protocol, in accordance with procedures approved by the Committee;
- j) overview of the Officers' Code of Conduct;
- k) overview of the Protocol on Member/Officer Relations.

### **Code of Conduct Complaints**

15 In 2012, following the implementation of the Localism Act 2011 and associated changes to the Standards regime, the Monitoring Officer was appointed as the 'Proper Officer' to receive complaints of failure to comply with the Code of Conduct. The Monitoring Officer has delegated power, after consultation with the Independent Person, if appropriate, to determine whether a complaint merits formal investigation. Wherever practicable, the Monitoring Officer seeks resolution of complaints without formal investigation and she has discretion to refer decisions to the Standards Committee where she feels that it is inappropriate for her to make the decision. The Standards Committee receives a quarterly report on the discharge of this function.

16 During 2018/19 the number and breakdown of complaints regarding breaches of the Code of Conduct was as follows:-

<b>Year</b>	<b>1 April 2018 to 31 March 2019</b>	<b>1 April 2017 to 31 March 2018</b>
<b>Total no. of complaints received</b>	96	41
<b>Source of Complaints</b>	Councillors <span style="float: right;">27</span>	Councillors <span style="float: right;">14</span>

	Members of the public 67	Members of the public 25
	Parish/Town Council employee 2	Parish/Town Council employee 1
	Anonymous 0	Anonymous 1
<b>Complaints against including withdrawn and rejected</b>	County Councillors 13	County Councillors 13
	Parish Councillors 30	Parish Councillors 13
	Town Councillors 53	Town Councillors 15
	Dual-hatted 0	Dual-hatted 0
<b>Independent Persons Involved</b>	The Independent Person was consulted in respect of 28 complaints.	7 plus 1 Standards Committee Hearing Panel
<b>Outcomes</b>	Withdrawn/Rejected 7	No Further Action 30
	No Further Action 70	Local Resolution 8
	Local Resolution 10	Local Investigation 3
	Local Investigation 9	Standards Committee Hearing Panel 1

- 17 There has been an increase in the number of complaints received in 2018/2019 compared to the previous year. Whilst there has been an increase in the number of complaints received by the Authority it is important to note that some of these complaints are made by multiple individuals in respect of a single Member.
- 18 There has been a rise in the number of complaints which have been rejected on initial assessment or withdrawn prior to a decision being reached.

### **Work of the Standards Committee during 2018/2019**

- 19 During the year the Committee has met on four occasions. The Committee received updates on the current status of complaints and of the 'national picture' on Standards issues affecting Local Government. A Work Programme for the Committee was agreed at the December 2018 meeting.

- 20 As part of the Work Programme during 2018/2019 the Committee reviewed the Local Assessment Procedure, adopted Social Media Guidance and considered Department of Communities and Local Government Consultation on Disqualification Criteria for Councillors.
- 21 The Committee had previously commented on the review of Local Ethical Standards undertaken by the Committee for Standards in Public Life. The report was published in January 2019 and as a result of this the Standards Committee agreed to update the Code of Conduct to include the best practice recommendations.

### **Training and Development**

- 22 The Monitoring Officer held a training session on 14 November 2018 for Stanley Town Council and on 8 January 2019 for Waldrige Parish Council. The Monitoring Officer has also delivered individual training to Members elected during 2018/2019.

### **Moving Forward**

- 23 The Standards Committee is continually dedicated to its responsibility to champion and promote high standards of conduct amongst the County's local politicians. To achieve this aim the Committee will review the Member Code of Conduct, including Planning, the Member/Officer Protocol and Gifts and Hospitality.
- 24 The Committee will continue to provide support and advice where necessary to local Councils and in conjunction with the County Durham Association of Local Councils.

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**Contact: Kamila Coulson-Patel**

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## **Appendix 1: Implications**

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### **Legal Implications**

The Council has a duty under section 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 and to have in place arrangements under which allegations can be investigated and decisions made. The publication of an Annual Report aids the public understanding and awareness of the committee's work and demonstrates how the Council discharges its section 27 duty.

### **Finance**

There are no financial implications arising out of the report.

### **Consultation**

There are no consultation implications arising out of the report.

### **Equality and Diversity / Public Sector Equality Duty**

There are no equality and diversity implications arising out of the report.

### **Climate Change**

There are no climate change implications arising out of the report.

### **Human Rights**

There are no Human Rights implications arising out of the report.

### **Crime and Disorder**

There are no Crime and Disorder implications arising out of the report.

### **Staffing**

There are no staffing implications.

### **Accommodation**

There are no accommodation implications.

### **Risk**

There are no risk implications arising out of the report.

### **Procurement**

There are no procurement implications.

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**Standards Committee**

**17 December 2019**

**Review of Member Code of Conduct /  
Code of Practice for Members and  
Officers dealing with Planning Matters**



**Ordinary Decision**

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

**Electoral division(s) affected:**

None

**Purpose of the Report**

- 1 To consider proposed changes to the Member Code of Conduct and the Code of Practice for Members and Officers dealing with Planning Matters.

**Executive summary**

- 2 This report considers a proposed change to provisions in the Member Code of Conduct on 'other relevant interests', which would allow Members with such an interest to speak but not vote on the relevant item of business.
- 3 If the proposed change is approved, there would be consequent changes to the Code of Practice for Members and Officers dealing with Planning Matters.

**Recommendation(s)**

- 4 The Standards Committee is recommended to:
  - (a) Consider the proposed changes to the Member Code of Conduct and Code of Practice for Members and Officers dealing with Planning Matters; and
  - (b) Recommend the proposed changes to Constitution Working Group for consideration.

## **Background**

- 5 The Localism Act 2011 introduced new arrangements for the declaration of Members Interests. The Act introduced 'Disclosable Pecuniary Interests (DPIs), which are defined by legislation and must be declared by law. Failure to declare a DPI may constitute a criminal offence.
- 6 The interests regime introduced under the Localism Act removed the requirement for Members to declare personal and / or prejudicial interests. However, many authorities including Durham County Council, included a requirement to declare other relevant interests within their Member Codes of Conduct. Unlike with DPI's, there is no legal requirement to declare other relevant interests but failure to do so may amount to a breach of the Member Code of Conduct.

## **Other Relevant Interests**

- 7 Paragraph 9 of the Council's Member Code of Conduct provides that: Members may have an other relevant interest (which is not a disclosable pecuniary interest) in any matter to be considered or being considered at the meeting where:
  - (a) a decision in relation to that matter might reasonably be regarded as affecting the wellbeing or financial standing of them or a member of their family or a person with whom they have a close association or an organisation or body under paragraph 5.1(b), 5.1(c) or 5.1(d) above to a greater extent than it would affect the majority of the council tax payers, rate payers or inhabitants of the ward or electoral area for which they have been elected or otherwise of the authorities administrative area; and
  - (b) the interest is one that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgement of the public interest.
- 8 Paragraph 9.2 of the Code goes on to state that where a Member has an other relevant interest, they must declare it either at or before consideration of the item of business or as soon as the interest becomes apparent. The Member must not participate in any discussion or further discussion of an item or in any vote taken on that item and must leave the room whilst the discussion and voting takes place.
- 9 There are corresponding provisions at paragraphs 3.1 and 3.2 of the Code of Practice for Members and Officers dealing with planning matters.

- 10 The provisions which prevent Members from speaking on matters where they have another relevant interest are quite strict. Other authorities allow Members with such interest to speak but withdraw prior to the vote. Others do not have provisions relating of other relevant interests at all.
- 11 There have been a few instances recently at planning committee where Members have been precluded from speaking on matters which relate to their ward because they have an other relevant interests and the other ward councillors have not been able to attend to represent residents' views. This has caused concern at the ability of ward councillors to fulfil their duties. Since other relevant interests are provided for under the Member Code of Conduct rather than by legislation, there is no reason in law why members cannot speak on an item where they have a relevant interest but withdraw before the vote is taken. This approach is adopted in other local authorities where other relevant interest provisions have been retained.
- 12 Members are therefore invited to consider whether to amend the Code to enable Members with an other relevant interest to speak on a matter and withdraw for the vote.
- 13 If Members are minded to amend the rules, Council will be required to approve the amendments to the Member Code of Conduct and consequently amends to the Code of Practice for Members and Officers dealing with planning matters.

## **Conclusion**

- 14 There is no legal requirement for Members to declare other relevant interests. Therefore, changes can be made with Council approval.

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**Contact: Helen Lynch**

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## **Appendix 1: Implications**

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### **Legal Implications**

Section 28 of the Localism Act 2011 requires that the Council adopts a Code of Conduct, which is consistent with the Nolan Principles in public life. The Code must also include the provisions, which the authority considers appropriate in relation to the registration and disclosure of pecuniary interests (DPIs) and the interests other than pecuniary interests.

### **Finance**

There are no financial implications arising out of the report.

### **Consultation**

The proposed changes will also be considered by the Chairs and Vice Chairs of Planning Committee and the Constitution Working Group prior to being presented by full council.

### **Equality and Diversity / Public Sector Equality Duty**

There are no equality and diversity implications arising out of the report.

### **Climate Change**

There are no climate change implications arising out of the report.

### **Human Rights**

There are no Human Rights implications arising out of the report. However, being able to represent the views of residents is an important element of local democracy.

### **Crime and Disorder**

There are no Crime and Disorder implications arising out of the report.

### **Staffing**

There are no staffing implications.

### **Accommodation**

There are no accommodation implications

### **Risk**

There is a limited risk that by amending the requirements in relation to other relevant interests, Members will not understand their obligations or fail to

declare interests appropriately. It is considered that this risk is no greater than the risk that exists under the present arrangements. The changes and the impact of changes will be communicated to Members and covered in future Code of Conduct training. Officers will continue to provide Members with advice on a case by case basis as required.

### **Procurement**

There are no procurement implications.

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

**Electoral division(s) affected:**

None.

**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 (5<sup>th</sup> September 2019).

**Recommendation(s)**

- 3 The Standards Committee is recommended to:
  - (a) note the report and request that Officers monitor the progress of the matters referred to and keep the Committee updated; and
  - (b) 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**

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.

## **Burnley Borough Council – Councillor H – 5<sup>th</sup> July 2019**

- 5 At a meeting on 5 July 2019 the Audit and Standards Committee considered the complaint that Councillor H had “liked” and responded to a misogynistic and abusive post about a local MP on his Borough and County Council Facebook account.
- 6 The Complainant was allowed to remain anonymous because of their concerns about how a previous complainant had been treated by the Councillor. The investigation into the complaint noted that in September 2018, the Councillor had been the subject of a standards hearing after which he was required to attend social media training but had failed to attend. The Councillor also refused to engage with the investigation subject to this complaint and did not attend the hearing. In correspondence he justified this by saying that nothing would happen as a result of the investigation.
- 7 The hearing panel convened and the Investigating Officer who had carried out an investigation into the allegations presented her report to the panel. The Councillor was invited to the hearing but declined to attend.
- 8 The hearing panel found the Councillor to have breached the Council’s Code of Conduct for Members in relation to the Leadership Principle. Members should promote and support General Principles of the Code of Conduct by leadership and by example, and should act in a way that secures or preserves public confidence.
- 9 The panel found the Councillor had behaved in a manner which could reasonably be regarded as breaching this Leadership Principle as the “liking” of the language referred to was inappropriate. The panel when considering sanctions determined that the decision notice would be published and the panel report its finding to the Council for information.

## **Falmouth Town Council – Councillor B (25<sup>th</sup> July 2019)**

- 10 On 25 July 2019 the Monitoring Officer considered a complaint from a complainant concerning the alleged conduct of a Councillor of Falmouth Town Council.
- 11 The complaint in summary is that a Certificate of Lawfulness application was under discussion at a meeting of the Town Council to which the applicant is the Complainant. The Complainant removed himself from the room when this matter was discussed. On his return to the room he had noticed that the Subject Member was no longer present.
- 12 The Complainant was advised that during discussions, the Subject Member objected to the application and raised concern. The Subject Member stated he had objections to the application and referred to previous alterations to the land in question. It should be noted that the Subject Member has, in the past, raised concerns about past activity on the Complainant's land.
- 13 When advised by the acting Chair that the application under discussion was to discuss the regulation of land use, the Subject Member continued to speak on past matters. The Subject Member in his response, is of the opinion that the Complainant is 'paving the way' for future development.
- 14 Despite being advised by the acting Chair and the Clerk several times to stop speaking, the Subject Member continued to speak over them, raising his voice, in an agitated manner.
- 15 The Clerk had advised the acting Chair that the matter should be adjourned for the situation to settle down however the matter was moved to a vote to which the Town Council did not raise any representation to the application. The Subject Member was upset by this decision and 'angrily' left the meeting stating that his name should be recorded as having voted against the decision.
- 16 The Subject Member has stated, in his response, that he is hard of hearing and consequently had to raise his voice.
- 17 The Monitoring Officer considered that there had been a personal attack on a person by a Member. The Code does allow a Member to be critical of others but this must not be done in such a way that is personal and therefore disrespectful. The Monitoring Officer considered the case of *Heesom v The Public Services Ombudsman for Wales* that;

*.....politicians are subject to wider limits of acceptable criticism and are required to have thicker skins and to have more tolerance to comment than ordinary citizens.'*

- 18 In dealing with any matters Councillors can be critical and can challenge, indeed this is intrinsic to the role of a Councillor. However, the operation of the Code draws a distinction between being critical and challenging to attacking anyone personally.
- 19 In respect of the resolution it was recommended that whilst the Subject Member had responded directly to this complaint the Monitoring Officer did not consider that the comments made outweighed the breaches found. As a result of these breaches of the Code of Conduct the recommended action was that the Subject Member writes a meaningful apology to the Clerk and the acting Chair for the manner in which he acted during the course of the meeting.

#### **Lichfield District Council - Councillor L (1 July 2019)**

- 20 The Assessment Sub-Committee met on 1 July and reviewed the complaint brought by the Complainant dated 3 February 2019 that the Councillor had not updated his register of interest form to show correct and accurate information regarding the business interests of his spouse, who was carrying out work for Lichfield City Council as Pretty Little Parlour.
- 21 The matter was referred to the Audit and Member Standards Committee who considered the investigation report dated 26 March detailing all the evidence relating to the operation of Pretty Little Parlour and services provided by the same to Lichfield City Council as well as the Register of Interests Forms submitted by the Councillor during the period.
- 22 The Investigation recorded that the Councillor admitted he had failed to register the business in his interests as, save for the services provided to the City Council, he did not believe to be operating as such at that time.
- 23 The Committee on considering the complaint agreed that a breach of the Code of Conduct for Lichfield District Council had occurred, in that the Councillor had failed to register the business of his spouse and also failed to register the existence of a contractual relationship between the City Council and Pretty Little Parlour. The Committee found that the Councillor had not understood the letter and spirit of the Code of Conduct and resolved to censure the Member and he undertook Code of Conduct training.

## Background papers

- None.

## Other useful documents

- <https://burnley.moderngov.co.uk/mgAi.aspx?ID=9785#mgDocuments>
- <https://www.cornwall.gov.uk/media/39690268/ccn002-19-20-decision-notice-councillor-bonney-falmouth-town-council.doc>
- <https://democracy.lichfielddc.gov.uk/ieListDocuments.aspx?CId=249&MIId=1601>

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**Contact:** Kamila Coulson-Patel Tel: 03000 269674

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## **Appendix 1: Implications**

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### **Legal Implications**

The Council has a duty under section 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.

### **Climate Change**

None.

### **Human Rights**

None.

### **Crime and Disorder**

None.

### **Staffing**

None.

### **Accommodation**

None.

### **Risk**

None.

### **Procurement**

None.