



## **Standards Committee**

**Date**        **Wednesday 23 November 2016**  
**Time**        **9.30 am**  
**Venue**       **Committee Room 1B, 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 9 September 2016 (Pages 1 - 4)
4. Local Government Standards - Reappointment of Independent Persons (Pages 5 - 8)
5. Standards Committee Hearing Panel - Alleged Breaches of West Rainton and Leamside Parish Council's Code of Conduct (Pages 9 - 14)
6. Such other business as in the opinion of the Chairman of the Meeting is of sufficient urgency to warrant consideration.
7. Any resolution relating to the exclusion of the public during the discussion of items containing exempt information.

#### **Part B**

**Items during which it is considered the meeting will not be open to the public (consideration of exempt or confidential information)**

8. Code of Conduct Complaints (Pages 15 - 22)
9. Such other business as in the opinion of the Chairman of the Meeting is of sufficient urgency to warrant consideration.

**Colette Longbottom**  
Head of Legal and Democratic Services

County Hall  
Durham  
15 November 2016

**To: The Members of the Standards Committee**

Councillors J Clark, M Dixon, B Graham, G Holland, E Huntington, B Kellett,  
J Lindsay, M Nicholls, K Shaw, W Stelling and B Stephens

Parish and Town Council Representatives – Councillors T Batson and R Harrison

**DURHAM COUNTY COUNCIL**  
**STANDARDS COMMITTEE**

At a Meeting of **Standards Committee** held in Council Chamber, County Hall, Durham on **Friday 9 September 2016 at 11.30 am**

**Present:**

**Councillor B Kellett (Chairman)**

**Members of the Committee:**

Councillors J Clark, G Holland, E Huntington, J Lindsay and W Stelling

**Co-opted Members:**

Town Councillor T Batson

**1 Apologies for Absence**

Apologies for absence were received from Councillors M Dixon, M Nicholls, K Shaw and Parish Councillor R Harrison.

**2 Declarations of Interest**

There were no declarations of interest.

**3 Minutes**

The Minutes of the meeting held on 6 May 2016 were agreed as a correct and were signed by the Chairman.

**4 Committee on Standards in Public Life - Annual Report 2015-16/Forward Plan 2016-17**

Consideration was given to the report of the Head of Legal and Democratic Services which advised of activities of the Committee on Standards in Public Life (the Committee) in relation to Local Government standards over the course of the past year and the Committee's forward plan of work for 2016-2017 (for copy see file of Minutes).

The Governance Solicitor reported that the North East Monitoring Officers Group had informed the Committee that Councils were satisfied with their own local standards frameworks but that the sanctions regime was not strong enough to address breaches of the Code of Conduct.

Councillor Clark agreed that the sanctions available needed to be strengthened, particularly as investigations into alleged breaches required a lot of work by Officers.

In response to a comment from Councillor Batson, the Member was informed that, with the exception of Stanley Town Council, Parish and Town Councils in County Durham had adopted the NALC Code of Conduct.

**Resolved:**

That the report be received.

**5 Annual Report of the Standards Committee 2015/2016**

Consideration was given to the report of the Head of Legal and Democratic Services which informed Members of the work of the Standards Committee during 2015/16 and set out the future direction which the Committee intended to take during 2016/17 (for copy see file of Minutes). Members were advised that the report would be presented to the County Council on 21 September 2016.

The Governance Solicitor reported that there had been an increase in the number of complaints in 2015/2016 compared to the previous year which was partly due to the Code of Conduct being misused by Councillors as a weapon against an individual with whom there was a political or personal difference of opinion.

Councillor Holland referred to the use of social media by Councillors and considered that it should be used with caution to avoid potential complaints of alleged breaches of the Code of Conduct. The Governance Solicitor advised that the use of social media was addressed in Code of Conduct training.

With regard to training and development in the year, refresher training had been hosted by Durham County Council for all Parish and Town Councils in November 2015 with a refresher session for Ferryhill Town Council in January 2016. Sessions were to be held for Horden, Etherley and Chilton Parish Councils in the near future.

For information the Committee was informed that the term of office of the independent persons was due to end on 18 September 2016, and because of the experience they had gained, and for continuity, a report was to be presented to the County Council on 21 September 2016 recommending their re-appointment for a further four year term.

**Resolved:**

That the report be noted and presented to County Council on 21 September 2016.

## **6 Exclusion of the Public**

### **Resolved:**

That under Section 100A(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A of the Act.

## **7 Code of Conduct Complaints**

The Committee considered a report of the Head of Legal and Democratic Services and Monitoring Officer which provided an update in respect of complaints of alleged breaches of the Code of Conduct since the last meeting (for copy see file of Minutes).

The table at Appendix 2 of the report provided an overview of complaints handling and decision notices were available for inspection by Members.

For information the Governance Solicitor informed Members of the outcome of a Standards Committee Hearing Panel held on 6 September 2016 which had found a breach of the Code of Conduct by Councillor Gilbank of West Rainton and Leamside Parish Council. The Decision Notice would be submitted to the next meeting of the Standards Committee for information.

### **Resolved:**

That the report be noted.

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## **Standards Committee**

**23 November 2016**

### **Local Government Standards - Reappointment of Independent Persons**



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### **Report of Colette Longbottom, Head of Legal & Democratic Services**

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#### **Purpose of the Report**

- 1 To inform Standards Committee of the re-appointment of the two independent persons.

#### **Background**

- 2 The Localism Act 2011 sets out the requirements in relation to Local Government Standards and it requires the appointment by the authority of at least one independent person.
- 3 The functions of the independent person in relation to Standards are:-
  - They must be consulted by the authority and their views taken into account before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect to that member.
  - 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 co-opted member of the Council or a parish council against whom the complaint has been made.
- 4 In September 2012 two independent persons were appointed to the Standards Committee.
- 5 Mr John Dixon Dawson 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.
- 6 Mr Peter Jackson is from Newton Hall and is retired. He is 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.

- 7 The role of the independent person was widened under the Local Authority's (Standing Orders) England (Amendment) Regulations 2015 which came into force on 11 May 2015 and changed the localised disciplinary process. In the case of proposed disciplinary action against a statutory officer, the Council is required to invite the independent person(s) who have been appointed for the purposes of the Members Code of Conduct regime to form an independent panel and take into account any recommendation of that panel before taking a decision to appoint or dismiss
- 8 On 23 September 2015, Council agreed that the term of office for the independent persons should be set at four years from the time of appointment.

### **Reappointment of Independent Persons**

- 9 Since the introduction of the new Standards regime in July 2012, the independent persons have been consulted by members against whom a complaint has been made. Mr Dixon Dawson was consulted by the authority last year in relation to a local investigation where no breach of the Code of Conduct was found. Mr Jackson recently attended a Standards Committee Hearing and was consulted as part of that process. The independent persons have attended training and developed experience in the role.
- 10 The independent persons are also aware of the widening of their role in relation to the disciplinary process against a statutory officer and have confirmed that under the priority order for appointing independent persons to a panel, they have no objection to being approached by other Local Authorities in the region in this regard.
- 12 On 21 September 2016, Council resolved that in order to keep continuity of expertise in relation to the Council's Standards regime, the independent persons are re-appointed for a further term of four years.
- 13 Mr Dixon Dawson and Mr Jackson have therefore been re-appointed.

### **Recommendations and reasons**

- 14 Committee note the reappointment of the independent persons.

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**Contact: Clare Burrows Tel: 03000 260548**

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**Appendix 1: Implications**

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**Finance – None – there will be no costs incurred in the reappointment and training / development costs would be minimised due to the existing expertise, knowledge and experience of the current appointed independent persons.**

**Staffing - None**

**Risk - None**

**Equality and Diversity / Public Sector Equality Duty - None**

**Accommodation - None**

**Crime and Disorder - None**

**Human Rights - None**

**Consultation - None**

**Procurement - None**

**Disability Issues - None**

**Legal Implications – None – there is no statutory bar to the reappointment of the independent persons**

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**Standards Committee**

**23 November 2016**



**Standards Committee Hearing Panel-  
Alleged Breaches of West Rainton and  
Leamside Parish Council's Code of  
Conduct**

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**Report of Colette Longbottom, Head of Legal and Democratic  
Services**

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**Purpose of the Report**

1. To inform Members of the outcome of a hearing to consider a number of complaints concerning the alleged conduct of Councillor Mark Gilbank of West Rainton and Leamside Parish Council.

**Background**

2. A Hearing Panel of the Standards Committee was convened on 6 September 2016 following an investigation by the Council's Governance Solicitor who had concluded that breaches of the Code of Conduct had occurred.
3. The Hearing Panel determined that paragraph 1 of the West Rainton and Leamside Parish Council Code of Conduct had been breached and requested Councillor Gilbank to make a public apology to those who had cause to complain of his behaviour as a Parish Councillor. The Panel also requested that Councillor Gilbank undertake training on the Code of Conduct.
4. Councillor Gilbank made a public statement of apology at the meeting of West Rainton and Leamside Parish Council on 15 September 2016 and attended a training session on the Code of Conduct on 21 September 2016.
5. A copy of the Decision Notice of the Standards Committee Hearing Panel is attached at Appendix 2 for information.

**Recommendation**

6. The Standards Committee is requested to note the outcome of the Hearing Panel.

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**Contact: David Taylor**

**Telephone: 03000 269727**

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## **Appendix 1: Implications**

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**Finance:** None

**Staffing:** None

**Risk:** None

**Equality and Diversity/Public Sector Equality Duty:** The decision to investigate emphasised the importance attached to compliance with this duty

**Accommodation:** None

**Crime and Disorder:** None

**Human Rights:** None

**Consultation:** None

**Procurement:** None

**Disability Discrimination Act:** None

**Legal Implications:** As set out in the report

# DURHAM COUNTY COUNCIL STANDARDS COMMITTEE PANEL HEARING IN RELATION TO POSSIBLE BREACHES OF THE CODE OF CONDUCT

Reference numbers: MO 127-131 and 133,134,136

Name of member: Parish Councillor Mr Mark Gilbank

Relevant authority concerned: West Rainton and Leamside Parish Council

Name of investigator: Clare Burrows

Date of the hearing: Tuesday 6 September 2016

Names of Standards Committee members:

Chairperson: Councillor Kevin Shaw

Member: Councillor June Clark

Member: Councillor Terry Batson

Name of independent person consulted – Peter Jackson

Name of legal advisor to the Standards Committee: David Taylor

Name of clerk of the hearing: Jill Errington

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## **Preliminary information**

On 7<sup>th</sup> August 2015 the Deputy Monitoring Officer considered a series of complaints concerning the alleged conduct of Councillor Mark Gilbank of West Rainton and Leamside Parish Council. A general summary of the complaints is set out below:-

They related to Councillor Gilbank's alleged behaviour at various Parish Council and Parish Meetings when he is alleged to have been guilty of being disrespectful to others and acting in an intimidatory manner. They relate to facebook postings containing disrespectful and threatening content. They also included his alleged actions of moving boulders surrounding the village green and his manner when confronting others with complaints about their actions or those of their contractors affecting the village green.

The complaints were referred for investigation by the Council's Governance solicitor Clare Burrows who concluded on 17<sup>th</sup> June 2016 that breaches of the code of Conduct had occurred. A Hearing Panel of the Standards Committee met on 6<sup>th</sup> September 2016 to consider the complaints where the investigating Officer had found a breach to have occurred.

### **Oral and written submissions (procedural)**

The Standards Committee Panel's decision on procedural matters was as follows:

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

No representations were received. The Committee conferred and decided that the hearing be held in public.

#### **Findings of Fact**

The Chair invited Ms Burrows to present her report and address the issue of whether there had been a breach of the Code of Conduct. At the outset the investigating officer withdrew a finding of breach in respect of the part of complaint MO 128 which related to an email to Councillor Bulmer on 29<sup>th</sup> May 2016. On further reflection the investigating officer considered this was another action taken by Mr Gilbank as a private citizen and not as a councillor. The hearing proceeded in respect of the remaining nine breaches found by the investigating Officer.

In accordance with the Local Determination Procedure the Standards Committee Panel considered the verbal presentation of the Investigation report by the Investigating Officer, during which Ms Burrows called a number of witnesses. The witnesses answered questions from the Panel, the independent person and Councillor Gilbank.

The Standards Committee Panel then invited verbal representations from Parish Councillor Gilbank in order to allow him to challenge any factual findings in the report which he disputed and to address the issue of whether there had been any breaches of the Code of Conduct. Councillor Gilbank responded to questions from the Panel.

Having considered the evidence presented to them the Standards Committee Panel accepted the findings of fact made by the Investigating Officer:

#### **Whether or not Parish Councillor Mark Gilbank has failed to follow the Code of Conduct**

The Investigation had explored potential breaches of paragraphs 1 and 2 of the Parish Council Code of Conduct. Paragraph 1 requires members to behave in such a way that a reasonable person would regard as respectful. Paragraph 2 requires members not to act in a way which a reasonable person would regard as bullying or intimidatory.

## **The Standards Committee Panel's decision on whether or not there had been a breach of the Code of Conduct**

The Standards Committee Panel were unanimous in their decision that paragraph 1 of the West Rainton and Leamside Parish Council Code of Conduct had been breached. Whilst the Panel made no finding of bullying or intimidation they expressed the view that certain of the evidence they had heard was on the verge of going beyond disrespect and could have been classed as intimidatory behaviour.

### **Sanctions**

The Panel were disappointed that Councillor Gilbank's behaviour had caused them to have to be critical of so many incidents amounting to breach of the Code of Conduct over a period of 15 months. The Panel requested Councillor Gilbank to make a public apology to those who had cause to complain of his behaviour as a councillor. The Panel suggested that a public statement at the next meeting of the Parish Council might be the most appropriate manner in which to deliver such an apology. The Panel also requested Councillor Gilbank to undertake training on the Code of Conduct which the Monitoring Officer will be prepared to arrange.

### **Right of Appeal**

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

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Chair of the Standards Committee Panel

Date

14/09/2016

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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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