

## **Standards Committee**

**10 December 2018**

### **Standards Committee Hearing Panel- Alleged Breaches of Durham County Council's Code of Conduct – COM 134**



## **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 Members of the outcome of a hearing to consider a complaint concerning the alleged conduct of Councillor Stephen Hugill of Durham County Council.

#### **Executive summary**

- 2 In accordance with the Council's Local Determination Procedure a Standards Committee Hearing Panel was convened following the decision of the Monitoring Officer that an investigation was appropriate to consider alleged breaches of the Code of Conduct for Members by Councillor Stephen Hugill. The Investigation was conducted by a Governance Solicitor appointed by the Monitoring Officer who concluded that Councillor Hugill had breached the Code of Conduct.
- 3 This report informs Members of the decision of the Hearing Panel.

#### **Recommendation**

- 4 The Standards Committee is requested to note the outcome of the Standards Committee Hearing Panel attached at Appendix 2 of the report.

## Background

- 5 On 9 October 2018 a Standards Committee Hearing Panel was convened to consider allegations that Councillor Hugill had failed to register a personal interest within 28 days of his appointment as a member, contrary to Part 2 of Paragraph 11 of the (then) Code of Conduct, and regarding representations made about Council Officers to a Planning Inquiry, contrary to Part 1 Paragraph 4 (disrepute provision), and Part 1 Paragraph 6 (Protocol on Member/Officer Relations).
- 6 The Standards Committee Hearing Panel were unanimous in their decision that Part 1 Paragraphs 4 and 6, and Part 2 Paragraph 11 of the (then) Code of Conduct have been breached.
- 7 The Standards Committee determined that the following sanctions were appropriate:
  - Censure of Councillor Hugill;
  - training to be undertaken in the Council's Code of Conduct for Members including the Protocol on Member/Officer Relations;
  - a written apology be provided to the Chief Executive for the inappropriate comments made about Council Officers to the Planning Inquiry.
- 8 A letter of Censure was issued to Councillor Hugill on 29 October 2018 and published on the Council's website, and the Councillor sent a written apology to the Chief Executive on 23 October 2018. A date had been arranged for the Monitoring Officer to provide training on the Code of Conduct for Members, however this was postponed due to unforeseen circumstances. It is anticipated that it will now take place in early 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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## **Appendix 1: Implications**

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### **Legal Implications**

The Council has a duty under s. 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its Members and to adopt a code of conduct that is consistent with the Nolan Principles. 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.

### **Human Rights**

None.

### **Crime and Disorder**

None.

### **Staffing**

None.

### **Accommodation**

None.

### **Risk**

None.

### **Procurement**

None.

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## **Appendix 2: Report of the Standards Committee Hearing Panel**

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### **Durham County Council Standards Committee Panel Hearing in relation to possible breaches of the Code of Conduct (COM 134)**

Name of Member: Durham County Councillor Stephen Hugill

Names of the Standards Committee members:

Chairperson: Councillor Bill Kellett

Member: Councillor June Clark

Member: Parish Councillor Ralph Harrison

Name of independent person consulted: John Dixon-Dawson

#### **Preliminary Information**

On 19 December 2017 the Monitoring Officer considered a complaint from Janet Sewell concerning the alleged conduct of Durham County Councillor Stephen Hugill in accordance with the Council's Procedure for Local Assessment of Complaints ("the Procedure"). A general summary of the complaints is set out below:-

On 24 November 2017, the Clerk to Evenwood and Barony Parish Council enquired on behalf of a resident as to whether Councillor Hugill had completed a declaration of interest on his election in May 2017 as it was not available to view on the Council's website.

On 4 December 2017, Janet Sewell wrote to the Council asking for confirmation that Councillor Hugill had completed his declaration on taking office. She referenced the requirement for Councillors to declare interests within 28 days of election. Failure to do so could mean that he is "*in receipt of financial and other information without the council being fully aware of any potential interests and therefore a breach of policy*".

The Monitoring Officer was handed Councillor Hugill's completed declaration on 6 December 2017. It was published on the Council's website and a link was provided to Janet Sewell in response to her email dated 4 December 2017.

On 7 December 2017, Janet Sewell acknowledged receipt of the declaration but noted that it was undated. She also noted that Councillor Hugill had stated that he owned a farm but that this had not been declared on his register. It is understood that Councillor Hugill provided this information as part of an ongoing Planning Inquiry.

The Monitoring Officer made enquiries with the Solicitor with conduct of the Planning Inquiry to confirm whether Councillor Hugill made such representation and if so whether the farm was within County Durham and therefore needed to be disclosed. The representations did not provide that level of detail but the representations were critical of Council Officers and their actions during events which led to the planning inquiry and appeared to contravene the Council's Member Officer Protocol.

The Monitoring Officer considered potential breaches of Durham County Council's Code of Conduct as follows;

Part 1 paragraph 4 of the Code which requires members not to conduct themselves in a manner which could reasonably be regarded as bringing the Council, or the office of councillor into disrepute.

Part 1 paragraph 6 of the Code which requires members to comply with any Protocol adopted by the Council which seeks to regulate the conduct of elected members.

Part 2 paragraph 11 which relates to the registration of disclosable pecuniary interests.

The Monitoring Officer determined that the complaints regarding Councillor Hugill's alleged failure to declare his disclosable pecuniary interests within 28 days of his election and in a farm he owns should be referred to the police in the first instance. The allegation was referred to the police in December 2017 to investigate. Councillor Hugill admitted the failure to declare his interests. However, the police concluded that it was not in the public interest to take any further action. They considered that it should be dealt with in accordance with the Council's procedures.

On 29 March 2018 the Monitoring Officer further considered the complaint and made a determination that the matter should be investigated.

The complaints were referred for investigation by Stephen Pearson, Partner at Freeths LLP who concluded that breaches of the Code of Conduct had occurred. A Hearing Panel of the Standards Committee met on 9 October 2018 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**

The Investigating Officer and Councillor Hugill were invited to make representations on whether the Hearing should be heard in public or private. The Investigating Officer made no representation. Councillor Hugill submitted that the Hearing should be heard in private as he felt that as there were no nasty feelings in the whole situation there was no basis for it to be heard in public. The Committee conferred and took advice from the Independent Person and a decision was made to hold the Hearing in public so as to enable a transparent process. It was however, decided to

redact some of the information provided by Councillor Hugill so as to preserve sensitive, confidential information.

## **Findings of Fact**

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 but that as part of his investigation he had spoken to Councillor Hugill, Terry Collins, Durham County Council's Chief Executive Officer and Joanne Waller, Durham County Council's Head of Environment, Health and Consumer Protection.

In respect of the allegation about failure to declare interests the Investigating Officer explained that the matter was straightforward and not only is the matter a breach of the Code of Conduct but also a criminal offence under section 34 of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The Investigating Officer highlighted that upon re-election in May 2017 Councillor Hugill would have received a note from the Council's Acting Monitoring Officer requiring registration of interests within 28 days. Councillor Hugill did not complete his registration and a number of reminders were sent from the Monitoring Officer. A declaration form was then completed on 6 December 2017 which recorded Councillor's Hugill home address only, no other property was mentioned.

The Investigating Officer highlighted that there was a long difficult history involving a planning application for a farm. During this process Mrs Sewell noted that Councillor Hugill appeared to have failed to make a declaration. Councillor Hugill owns a farm which is a few miles away from the property involved in the planning dispute. Councillor Hugill did not declare his interest in this farm, the farm is tenanted and he has not personally operated it for a number of years. The Investigating Officer explained that failure to disclose interests is strict liability and that Councillor Hugill did not comply with his requirements in respect of the land he owns. The declaration containing both properties was done on 30 July 2018.

In respect of the allegation about representations made about Council Officers to a Planning Inquiry the Investigating Officer explained that Councillor Hugill was heavily involved in lobbying and supporting residents around the application for planning. This issue is how he conducted himself in the representations he made to the Planning Inquiry and whether the conduct amounted to a breach of the Code of Conduct around showing respect and courtesy to Council Officers. The Investigating Officer explained that some of the representations made were fair comments but that a number of comments amounted to serious accusations about the conduct of Council Officers. Councillor Hugill had accused the Council of deceit and removing documentation, the document in question subsequently was the subject of a police investigation.

The Planning Inquiry was a public forum and for Councillor Hugill to accuse the Council of deceit and removing information would make the Council look disorganised. Councillor Hugill was also suggesting that Council Officers were deceitful, possibly in a criminal way. The Investigating Officer expressed his view that Councillor Hugill has failed to conduct himself in a way that was respectful and courteous to Officers and that he had acted in a manner likely to put the Council into disrepute.

In accordance with the Council's Local Determination Procedure the Standards Committee Panel considered the verbal presentation of the investigation report by the Investigating Officer. The panel and the Independent Person then asked questions of the Investigating Officer.

The Standards Committee Panel then invited verbal representations from Councillor Hugill 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.

In respect of the first allegation Councillor Hugill explained that he did not receive the declaration form when he was elected in 2017. When he was elected as a Durham County Councillor first time round (prior to 2017) he received the form and duly completed it. When elected the second time he did not receive the form until September 2017, he experienced a lot of problems with his health and completely forgot to disclose the farm as he does not manage the land. Councillor Hugill explained that he had apologised to the police. Councillor Hugill stated that the farm land was handled by an agent, he declared it at the first election and did not believe he had to declare it a second time.

In respect of the second allegation Councillor Hugill explained that he was asked to attend a meeting with Mr Collins and Ms Waller during which he was asked to ask the residents to refrain from sending so many emails about the planning dispute as the Officers could not get on with what they needed to get on with. Councillor Hugill stated that he was not disrespectful at all.

The panel and the Independent Person then asked questions of Councillor Hugill.

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

### **Whether or not Durham County Councillor Stephen Hugill has failed to follow the Code of Conduct**

The investigation had explored potential breaches of Part 1 Paragraph 4 of the Council's Code of Conduct which requires members not to conduct themselves in a manner which could reasonably be regarded as bringing the Council, or their office as a member into disrepute. Part 1 Paragraph 6 which requires that members must comply with any Protocol adopted by the Council which seeks to regulate the conduct of members, in this instance the Protocol on Member Officer Relations. Part

2 Paragraph 11 which requires members to register the information about registrable personal interests within 28 days of appointment as a member.

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

The Standards Committee were unanimous in their decision that Part 1 Paragraphs 4 and 6 and Part 2 Paragraph 11 of Durham County Council's Code of Conduct for members had been breached.

In respect of the first allegation the Standards Committee found that Councillor Hugill had breached Part 2 Paragraph 11 of the Code of Conduct. Councillor Hugill should have declared his interest in the farm property owned since the 1980's. It was accepted that Councillor Hugill does not run activities at the farm however, he is still in receipt of an income from it and as such there is a clear pecuniary interest. It is clear that Councillor Hugill was aware previously when elected as a Durham County Councillor that his interest in the farm had to be disclosed.

In respect of the second allegation the Standards Committee found that Councillor Hugill had breached Part 3 of the Council's Protocol on Officer Member Relations in that he had failed to show respect and courtesy to Council Officers during a public Planning Inquiry. The Standards Committee found that the language used was inappropriate and unacceptable and as such Councillor Hugill had breached Part 1 Paragraph 6 of the Code of Conduct. Given that the comments were raised in a public forum this resulted in a breach of Part 1 Paragraph 4 of the Code of Conduct as this had the potential to bring the Council into disrepute.

### **Sanctions**

In accordance with the Council's Local Determination Procedure the Standards Committee Panel invited representations from the Investigating Officer, Councillor Hugill and the Independent Person as to whether action should be taken and if so what form the action should take.

The Panel were disappointed that Councillor Hugill's behaviour had caused them to have to be so critical of his behaviour amounting to a breach of the Code of Conduct. The Panel were concerned that it took Councillor Hugill a significant period of time to update the register of interests after becoming aware of the requirement to declare the interest in the farm he owns. The Panel were also concerned that upon reflection of the comments made at the public Planning Inquiry he did not accept that his behaviour was inappropriate and that the comments were disrespectful. In accordance with the Council's Local Determination Procedure the Standards Committee Panel concluded that the following sanctions were appropriate;

- Censure of Councillor Hugill.
- Training to be undertaken in the Council's Member Code of Conduct including the Protocol on Officer Member Relations.

- A written apology to be provided in writing to Terry Collins and copied to the Standards Committee for the inappropriate comments made about Council Officers to the Planning Inquiry.

**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**

**18 October 2018**

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**Date**