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**Report of Helen Lynch, Head of Legal and Democratic Service 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 on 2 December 2021.

**Recommendations**

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 25 June 2021, as part of the Annual Work Programme, this is a standing agenda item with a quarterly update to the Committee.

## **Code of Conduct Complaints and Reports**

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

## **Former Councillor Peter Little, Allerdale Borough Council**

6. On 19 October 2021, Workington Magistrates Court sentenced the now former Councillor to six weeks in prison after pleading guilty to section 127(1)(a) and (3) of the Communications Act 2003. A person is guilty of an offence if they send a message that is grossly offensive or of an indecent, obscene or menacing character. In this instance the former Councillor had sent a threatening email to his local MP and the Borough Council's Chief Executive.
7. At the sentencing hearing, the District Judge mentioned the serious nature of threatening MPs. This had been particularly highlighted by the tragic death of Sir David Amess MP on 15 October 2021.
8. The former Councillor had a record for disorder and violence and was already subject to a 12-week suspended sentence imposed for threats to neighbours and behaviours towards police officers. This was considered by the Judge to be an aggravating feature and the sentence reflected this.
9. Prior to the trial, Councillor Little had been a member of the Council's Independent Group. However, he was removed by the Group following his sentencing. In addition, Allerdale Borough Council confirmed that following conviction, under section 80 of the Local Government Act 1972, the Councillor was automatically disqualified as a Councillor with immediate effect.

## **Council Leighton Rowlands (Vale of Glamorgan) (26 January 2022)**

10. A Welsh Councillor who sits on the local authority's planning committee was found to have breached of the code of conduct after opening a cafe without first securing planning permission. The Welsh standards regime differs including the sanctions available however the principles regarding member Conduct are largely mirrored as they are founded on the same principles.
11. In 2019, the Councillor and his business partner opened a coffee shop and wine bar in a building which was shop. The change of use required

planning permission. The Councillor did submit an application for permission but opened the business before it was determined. .

12. This matter was referred to the Council's Standards Committee. At the meeting where it was considered, the councillor said he had limited knowledge of planning law when asked to explain his decision. The Councillor stated:

"Like most new councillors who sit on the planning committee we have training but they are always a whistle stop tour [...] and I would say I had difficulty in understanding the planning law like any member of the public would, even with the training."

13. The Councillor told the Committee that with hindsight he should have asked the Monitoring Officer for more advice.
14. On being advised by the Monitoring Officer of the concerns with his approach, the Councillor resigned from the business, withdrew the planning application and took no further part in the business and planning application process. As a result, the Councillor also lost his investment in the company.
15. The Standards Committee was satisfied that the Councillor was aware of the consequences of opening the cafe before a change of use planning permission was granted and the potential breach of planning control. This matter had been investigated by the Ombudsman and the Standards Committee reported:

"The Ombudsman determined that the evidence supports a finding that Cllr Rowlands' actions brought his office as a Councillor and the Council into disrepute and are suggestive of a breach of paragraph 6 1 a of the Code of Conduct." Cllr Rowlands accepted that he breached the Code of Conduct and said that he was "naive" in doing so.

16. The Standards Committee considered this to be a serious breach and determined that a one month suspension would be imposed.

### **Councillor Leo Pollak (Southwark Council, Committee 10 January 2022)**

17. The Councillor created the Twitter account @SouthwarkYIMBY in November 2017 which he used to make anonymous posts regarding housing issues and proposed developments in the Council's area. The account also retweeted housing related posts from other Twitter users including those made by the Councillor using his named account.

18. During the latter part of 2020 and in February 2021 the Councillor used the account to post tweets directly relating to two campaigns regarding specific proposals for development, being the Priory Court development (@courtcampaign), and a development proposed on the Elim Estate (@BallcourtGarden).
19. In February 2021, the Councillor was contacted by the South London Press who stated that they believed that he was behind the account, which he admitted. Following this the Councillor resigned from his role as Cabinet Member for Housing, issued a written apology which he also read out at the meeting of the Council Assembly on 24 February 2021.
20. Upon becoming aware that the Councillor was behind the account, the complaint was presented which included replies to the Complainant's Tweets on 11 February 2021. The Tweets were said to be aggressive, and that the use of the phrase 'nimbyism' was offensive.
21. The Complainant also alleged that two anonymous comments made in support of the planning application for the development on the Elim estate, posted on 12 February 2021, may have also been made by the Councillor prior to it being disclosed that he was behind the account.
22. Upon the complaint being presented an independent investigation was requested by the Monitoring Officer. The Investigating Officer found that by acting anonymously the Councillor had breached the Code. The Investigating Officer reported:

“By his own admission, one of the reasons that the Councillor sought to use the account was to address what he believed to be false statements about the Priory Court and Elim Estate Ballcourt Developments which he felt could significantly undermine them, and which he had not been able to address adequately using his named account. In other words his intention in this respect was the same, both when he was acting overtly using his named account, and when he was acting covertly, and that was to address misinformation, and influence public opinion and support for the developments.”
23. The Investigating Officer of Bevan Brittan LLP determined that the content of the Tweets to which the Code applied did not amount to conduct which was contrary to the Code.
24. In respect of the two anonymous comments made in support of the planning application for development of the Elim Estate Ballcourt which were denied by the Councillor, the Investigating Officer concluded “we did not find evidence other than supposition to conclude otherwise”.

25. With the investigation report it was noted that the Councillor expressed remorse for his actions. It was noted in the report that:

“[the] Councillor resigned his role on Cabinet, a role which he is passionate about, and has suffered public criticism and condemnation for his actions, including significant personal hardship and turmoil. In our opinion any sanctions that could be applied in relation to this matter fall significantly short of the consequences that have resulted quite independently of this process.”

26. The content of the tweets (mainly retweets) referred to specific developments and schemes in which the Councillor had been involved in his capacity as Cabinet Member (was considered to be generally inoffensive and uncontroversial).

27. At a sub committee meeting to determine the complaint the Monitoring Officer reported that she had considered the recommendation of the Investigating Officer, consulted with the Independent Person, Complainant and Councillor. She considered that the matter could be reasonably resolved without the need for a hearing and a recommendation of local resolution would be appropriate.

28. The Sub-Committee considered the report and it was agreed:

- To note the report of the Investigating Officer.
- To note that the report concluded there is evidence of a failure to comply with the Code of Conduct.
- To note the decision of the Monitoring Officer to resolve this complaint by Local Resolution and without the need for a hearing by the sub-committee.

29. Local Resolution was considered appropriate for the following reasons:

- The Councillor immediately accepted responsibility for their actions and issued a public apology at Council Assembly.
- The Councillor acknowledged throughout the investigating process that their actions were not appropriate and has repeatedly expressed remorse.
- The Councillor resigned from Cabinet.
- The Councillor sent a written apology to the Complainant on 24 June 2021.
- The Councillor has attended Code of Conduct and Social Media Training since the Complaint was received and the self-referral to the Monitoring Officer.
- The Councillor has agreed to undertake a conciliation meeting with the Complainant if requested.

## **House of Commons Debate Standards in Public Life: Local Authorities ( 24 January 2022.)**

30. Members of the Committee are aware of the awaited response from Government to the report on Ethical Standards by the Committee for Standards in Public Life published in 2019.
31. On 24 January 2022 ,the Minister for Levelling Up Communities, Kemi Badenoch responded to a question from Mark Garnier MP asking what steps are being taken to ensure standards in public life are upheld at local authority level. The Minister responded:

“The Government champion high ethical standards in local government. On 14 January, I supported the important Bill of my hon. Friend the Member for Mole Valley (Sir Paul Beresford) to disqualify sex offenders from local office and, before Christmas, I met the Chair of the Committee on Standards in Public Life to reaffirm that we will shortly be responding to the Committee’s report on this important issue and will set out further steps to improve the system”

32. In a follow up question the Minister responded:

“...I am actively considering the recommendations set out in the report of the Committee on Standards in Public Life, and will respond shortly. It is of the utmost importance that local authorities have the right tools to make the system work.” The report makes a number of recommendations which for its introduction require the introduction of legislation, this includes a role for the Local Government and Social Care Ombudsman in giving sanctioned councillors a route to appeal conduct decisions”

## **Levelling Up, Housing and Communities Committee (10 January 2022)**

33. On 10 January 2022, the Levelling Up, Housing and Communities Committee consider the Local Government and Social Care Ombudsman Triennial Review. Michael King, the Local Government and Social Care Ombudsman was in attendance.
34. The Committee heard from Mr King on the work of the Ombudsman in general but made specific reference in parts to Ethical Standards.
35. Mr King addressed the Committee on the recommendations of the CSPL which included a right of appeal to the Ombudsman for Councillors found to be at fault and who have had a sanction imposed on them.
36. Mr King told the Levelling Up, Housing and Communities Committee:

"So what we're saying is that absolutely we don't want to recreate the Standards Board. Absolutely, we don't want to usurp the role of the Monitoring Officer and of local Standards Committees in dealing locally with standards issues. We think, absolutely they should be dealt at first instance by local processes.

"What we are saying is that where those local processes have failed to get a satisfactory resolution, we think we could perhaps provide a helpful role in giving that independent assessment of those complaints to make sure that the local processes happened properly - but also to give some finality to what we all know can be quite toxic long-running dispute sometimes"

"If the local authority or the complainant or the councillor was able to take that outside the local process and bring it to us, we think we could probably give closure to some very long-running and damaging issues that can occur in that standards space."

37. The Monitoring Officer will continue to monitor updates on the response from Government on the CSPL report on ethical standards and present updates to the Committee as these become available.

### **Background papers**

- None

### **Other useful documents**

- <https://www.bbc.co.uk/news/uk-england-cumbria-58969783>
- [https://www.valeofglamorgan.gov.uk/en/our\\_council/press\\_and\\_communications/latest\\_news/2022/February/Council-member-suspended.aspx](https://www.valeofglamorgan.gov.uk/en/our_council/press_and_communications/latest_news/2022/February/Council-member-suspended.aspx)
- <https://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=516&MIId=7252>
- <https://hansard.parliament.uk/commons/2022-01-24/debates/F5E36C17-142D-4780-82CC-3CE8F1457E0D/StandardsInPublicLifeLocalAuthorities#contribution-D1B974FC-B2C2-49F7-9E60-AF39F3666D6C>
- <https://parliamentlive.tv/Event/Index/db18e32b-0028-44ea-97e4-9307232a2c54#player-tabs>

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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.