

Public Document Pack

Standards Committee

Wednesday, 4th March, 2020

6.00 pm

Conference Room 1 - OTH

AGENDA

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Date Published: 25th February 2020
Denise Park, Chief Executive

STANDARDS COMMITTEE Wednesday, 15 January 2020

PRESENT – Councillors; Afzal (Chair) Casey, Gunn, McGurk, Pearson, Slater and Whittle.

ALSO IN ATTENDANCE – Tassadaq Hussain, Paul Fletcher and Stewart Wright (Independent Members)

OFFICERS – David Fairclough, Asad Laher, Graham Fawcett, Fiona Eastwood, Rachel Hutchinson and Shannon Gardiner.

RESOLUTIONS

23 **Welcome and Apologies**

The Chair welcomed all present to the meeting. Apologies were received from Alan Eastwood (Independent Person).

24 **Minutes of the Previous Meeting**

RESOLVED – That the minutes of the previous meeting held on 23rd October 2019, be agreed as a correct record.

25 **Declaration of Interest**

There were no Declarations of Interest received.

26 **Personal Safety for Elected Members**

Members of the Committee were asked to approve a local Personal Safety Guide for Councillors incorporating a local Guide to handling intimidation to supplement the LGA (Local Government Association) Guide published on 4th July 2019.

The LGA Guide covered topics such as how to handle abuse, both face-to-face, letters or online, and the legal and practical remedies, including the nature of the criminal offences involved and the LGA confirmed this would be continuously updated with the latest advice and information available.

The Monitoring Officer circulated a link to the Guide to all Councillors in Blackburn with Darwen Borough Council on the date of publication and advised that the Standards Committee would consider a review of the Guide alongside our current local general advice to members.

At the Standards Committee meeting in October 2019, Members discussed the Guide and suggested that a shortened local Guide be produced to supplement the national guide. This had been drafted by officers and due to the General Election was circulated in draft form to all Elected Members to assist them in the event of any issues arising during the campaigning. It was now proposed that the Standards Committee consider recommending to the Full Council the formal adoption of the local Guide re-titled to Personal Safety Guide for Councillors to supplement that produced by the LGA

Discussions took place regarding the Personal Safety Guide and how accessible it would be for Members. It was noted that both Guides were to be available on the Council's website and for Members to save any affiliated links to their desktops for easy access.

Within the Personal Safety Guide was a link to the Caution list and it was advised to always check the list proper to any visit or meeting with someone not known to the Members. It was noted that the Caution list was monitored and recorded how many times the list was visited so that it was not being mistreated.

RESOLVED –

- That the local short Personal Safety Guide for Members be approved
- That the Personal Safety Guide be recommended to the Full Council for formal adoption

27 Member Training 2019/2020 Update

A report was brought to Committee which reviewed the Member training programme 2019/20.

At a previous Committee meeting the Members discussed the identification of additional areas and courses that they would like to see covered/developed for the programme. This was in response to a number of issues that Members had with regular `face to face` training events which was not always accessible due to work/personal commitments or political surgeries.

As part of the Digital Strategy, many courses for staff (and partners) in the Council were now managed through `e-learning` which addressed many of the concerns raised by Members who had traditionally only accessed `face to face` training events. It was noted that over 46,000 courses had been completed and over 50,000 people had been enrolled.

It is also recognised that people learnt in different ways and at varying speeds depending on the nature of the learning taking place. E-learning offered a solution which meant that people could learn at their own pace, privately and without peer or other pressures.

E-learning was available 24 hours a day which was often considered a valuable option for people with very busy lives and was easily accessible for Members as the application for E-learning had been placed on each Members desktop.

To date the experience of Councillors had been mixed. and the Committee would be provided with an up to date position at the meeting. It had previously been agreed that regularly throughout the year there should be the consideration of some general strategic briefings for all Members covering key elements of their roles and responsibilities.

Rachel Hutchinson, Resilience and Emergency Planning Manager delivered a presentation to the Committee that advised Members of MeLearning training

around Resilience and Emergency. The MeLearning system had a basic level of information which was essential for all Elected Member to be aware of. The training would assist Members in an emergency and how to share information to their constituents.

The Resilience and Emergency Planning training would be held annually, at any time of the year, and would be refreshed every other year or as necessary by Resilience and Emergency Planning team. The annual training would provide specific awareness of range of additional scenarios, relevant information and the opportunity to ask detailed questions.

RESOLVED –

- That the continued digitisation of training interventions for Elected Members be endorsed and that the report be noted.
- That the Members be enrolled onto the Resilience and Emergency Training as a priority
- That the Members were made aware of the MeLearning icon located on their Council tablet/computer

28 Guidance for Councillors on Personal References

Members were requested to consider the proposed revised guidance to Councillors in responding to requests for personal references.

The Standards Committee on 23rd October 2019 considered the report on advice for Councillors handling reference requests and referred to the advice issued in December 2016. The discussion referred to recent issues experienced by some Councillors when requested for personal references by their constituents.

Advice from the Monitoring Officer/Deputy Monitoring Officer could be sought by Councillors as and when needed. However, the Committee suggested that an updated Guidance on personal references would be helpful covering references for passport applications, criminal matters in court and employment related matters. Advice was last issued in December 2016 and requests had been made for this advice to be reviewed and if appropriate, updated and re-issued.

Discussion took place regarding personal experiences when being approached for a personal references and passport applications. Members were informed that there was no legal obligation to provide a reference or testimonials, nor were there any legal restrictions. It was noted that Councillors should not provide personal references on any matters where the Council was involved anyway; otherwise there could be a potential breach of the Code of Conduct.

RESOLVED -

- That the revised guidance for Councillors on Handling Reference Requests be approved
- That the Council be recommended to adopt the guidance and thereafter request that all Councillors comply with the guidance issued.

29 Complaints Update

The Monitoring Officer updated the Committee on complaints received regarding Members under the Arrangements for dealing with complaints about the Code of Conduct for Members up to 30th November 2019.

It was noted that during October 2019 a complaint was received regarding an Elected Members alleged conduct towards an officer. Following a meeting with the complainant, supported by a Deputy Monitoring Officer, the Elected Member offered an apology which was accepted by the officer concerned and therefore no further action was required under the pressure.

Up to 30th November 2019 there was no further complaints received under the Members Complaints Procedures.

RESOLVED – That the report be noted.

Signed:

Date:

Chair of the meeting
at which the minutes were confirmed

DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

Members attending a Council, Committee, Board or other meeting with a personal interest in a matter on the Agenda must disclose the existence and nature of the interest and, if it is a Disclosable Pecuniary Interest or an Other Interest under paragraph 16.1 of the Code of Conduct, should leave the meeting during discussion and voting on the item.

Members declaring an interest(s) should complete this form and hand it to the Democratic Services Officer at the commencement of the meeting and declare such an interest at the appropriate point on the agenda.

MEETING: **STANDARDS COMMITTEE**

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

(Paragraphs 8 to 17 of the Code of Conduct for Members of the Council refer)



REPORT OF: DIRECTOR OF PUBLIC HEALTH & WELLBEING

TO: STANDARDS COMMITTEE

ON: 4th March 2020

SUBJECT: Pennine Lancashire Member Health & Wellbeing Training and Development Programme

1. PURPOSE OF THE REPORT

To inform the Committee about the proposed Pennine Lancashire cross-district health and wellbeing training programme and to seek recommendations for the development of the programme.

2. RECOMMENDATIONS

The Standards Committee is asked:

1. To note the report as presented and endorse the development of a health and wellbeing programme for all elected members across Pennine Lancashire.
2. To make any recommendations for the development of the health and wellbeing training programme.

3. BACKGROUND

In the last three years Pennine Lancashire has been selected to deliver two large programmes of work – the Department of Health and Social Care funded Healthier Place Healthier Future (HPHF) and the Sport England funded Together an Active Future (TaAF). The programmes aim to support the health and wellbeing in our communities by improving the food environment and increasing levels of physical activity.

A particular focus of the Healthier Place Healthier Future programme is the development of Elected Members as community and system leaders who are in a position to influence the health and wellbeing of their wards. A period of consultation and engagement with Elected Members from across Pennine Lancashire earlier in 2019 identified that there is an opportunity to co-produce a comprehensive development programme.

Officers from the two programme are supporting the development of this programme, which is being co-designed with a number of Elected Members from each district to ensure it is fit for purpose, relevant and sustainable.

4. RATIONALE

One of the key levers for change within the HPHF programme is working with members to develop their knowledge, skills and confidence in supporting the health and wellbeing of their communities and challenging the wider health system to ensure the community's voice is heard during the development of Primary Care Networks.

The Pennine Lancashire wide programmes aim to support all members from all six districts to become informed and be advocates for health and wellbeing for their boroughs. Working across the districts brings the opportunity to share existing skills and knowledge in health and test and scale up what works well for the benefit of all.

The Pennine Lancashire Elected Member Health and Wellbeing Forum has been convened to support the development of a comprehensive and relevant training and development programme. The programme will be fully co-produced with members to ensure it is relevant and fit for purpose.

Whilst Blackburn with Darwen has a public health function as part of its statutory responsibility, members from district authorities reported during the consultation phase they feel they have no direct responsibility for health and wellbeing. This training programme will be designed to support the whole system approach to improving health and wellbeing and ensuring that health is seen as being everybody's business.

A suite of training and tools to support members is currently in development and will be tested with a small number of members as they are produced. Training is being designed to be both interactive and stimulating and available in a number of formats to cater for all learning styles and needs including online, face-to-face, video and audio and via a member only portal.

5. POLICY IMPLICATIONS

There are no direct policy implications from the report.

6. FINANCIAL IMPLICATIONS

The cost of the development of the online training and wider development programme is funded through the HPHF and TaAF programmes. However, a primary focus for this work is to ensure the programme is embedded within everyday practice with little or no funding required in future.

7. LEGAL IMPLICATIONS

Attendance at the health and wellbeing training is not mandatory for Members in terms of legislation. However, the burden of ill health on local authorities and the healthcare system is evident and it should be considered good practice to encourage involvement of all members in the programme.

8. RESOURCE IMPLICATIONS

The officers from HPHF and TaAF are supporting the development of the comprehensive programme through their funded programmes.

9. EQUALITY IMPLICATIONS

The provision of health and wellbeing training to elected members will highlight and support the health inequalities that exist within communities. The training will incorporate elements which will enhance members understanding of health equity and the impact on communities and the development of Council and healthcare services and policies.

10. CONSULTATIONS

The Standards Committee is being consulted through this report.

Beth Wolfenden
Public Health Development Manager and HPHF Project Lead

Contact Officer: Beth Wolfenden
Date: 24th February 2020



REPORT OF: DIRECTOR OF HR & LEGAL & GOVERNANCE

TO: STANDARDS COMMITTEE

ON: 4th March 2020

SUBJECT: Personal Safety Councillors – Accident & Incident Reporting Guide for Elected Members

1. PURPOSE OF THE REPORT

To consider the introduction of a new Accident & Incident Reporting Guide for Elected Members.

2. RECOMMENDATIONS

The Standards Committee is asked:

1. To approve an Accident & Incident Reporting Guide for Elected Members.

3. BACKGROUND

At their meeting in January the Committee reviewed the Local Government Association (LGA) Guide to handling intimidation for Councillors. The Guide is available to download in full via the link below.

www.local.gov.uk/councillors-guide-handling-intimidation

The guide covers topics such as how to handle abuse, both face-to-face, letters or online, and the legal and practical remedies, including the nature of the criminal offences involved and the LGA have confirmed this will be continuously updated with the latest advice and information available.

The Standards Committee also approved a recommendation to the Full Council of a short local Guide re-titled to Personal Safety Guide for Councillors to supplement that produced by the LGA.

Both Guides to be available on the Council's website for easy access.

During those discussions it was noted that Councillors are encouraged to report accidents and incidents which may affect them during their duties for the Council.

A digital solution for reporting incidents and accidents has been developed which will ensure the Council and elected members are kept informed of relevant incidents and receive appropriate support in the event of this being required.

A guide presented at Appendix A to this report has been created to enable Councillors to access the system and report relevant accidents and incidents in line with the LGA Guidance and Health & Safety Legislation.

4. RATIONALE

The Standards Committee's role and function includes oversight of the development of quality information to support members in their roles as decision makers and Ward councillors. The national Guide in its introduction describes becoming and serving as a councillor as a responsibility, a privilege and a hugely rewarding undertaking, but also advises that we are aware that an increasing number of councillors and candidates are being subjected to abuse, threats and public intimidation, undermining the principles of free speech, democratic engagement and debate. The growth of social media has provided an additional and largely anonymous route for individuals and groups to engage in such activity. It is equally important that Councillors report any general accidents or near misses they have as this helps inform others and enables careful and informed planning to avoid the potential for future repetition.

The development of this reporting tool will enable councillors to quickly and easily report matters and access support if needed.

5. POLICY IMPLICATIONS

There are no direct policy implications from the report.

6. FINANCIAL IMPLICATIONS

There are no financial implications from this report.

7. LEGAL IMPLICATIONS

Councillors are not employees of the council and do not have the benefit of safeguards in employment legislation if they suffer intimidation. However, the council does seek to support councillors to undertake their duties safely and without fear or intimidation. Incidents and accidents can occur in elected member roles and the Council has a general duty to seek to ensure a safe working environment, as far as is reasonably practicable. Political parties may also offer direct support. In undertaking activities as a councillor, councillors are protected by the same legislation relating to intimidation or threats as to any member of the public.

8. RESOURCE IMPLICATIONS

Support to members by the provision of local advice and support is provided via existing resources in Governance Services and Human Resources (Health, Safety and Wellbeing) teams.

9. EQUALITY IMPLICATIONS

There are no equality implications as the Guide has been produced to support a healthy democracy and provide guidance to councillors supporting existing legislation designed to protect not only councillors but the general public as a whole and ensure that equality of treatment and access to advice and services for all are maintained.

10. CONSULTATIONS

The Standards Committee is being consulted through this report.

David Fairclough
Monitoring Officer

Contact Officer: David Fairclough
Date: 20th February 2020

Accident and Incident Reporting Guide for Elected Members



Introductions

On 4th July 2019, the Local Government Association (LGA) published its Guide to handling intimidation for Councillors. In line with this guidance the Council published further guidance available to download in full via the link below.

www.local.gov.uk/councillors-guide-handling-intimidation

Elected Members are encouraged to report accidents and incidents which may affect them during their duties for the Council. To facilitate this process the Council has a digital solution to record and monitor incidents.

This process will help ensure that the Council and Elected Members are kept informed of relevant incidents and receive the appropriate support available. The anonymised information can be provided to the appropriate Council forums for review and action.

This guide is to support Elected Members access the system and report relevant accidents and incidents in line with LGA guidance and Health and Safety Legislation.

The Corporate Health & Safety Team and Governance Team will work together to provide the appropriate advice and guidance in relation to any accident or incident.

Accident and incident and near miss reporting system

Access the reporting system is via the following link. It is advised that you save this in your favourites on your internet tool bar:

<https://incidentreporting.blackburn.gov.uk/>

Upon accessing the link the following screen appears:

Accident, incident or Near Miss Reporting System

[Health and Safety information](#) :: [Training](#) :: [Employee Assistance Programme](#) :: [Wellbeing Service](#) :: [Absence](#) :: [To view our](#)

Accident, Incident and Near Miss Report

If you need help filling in this e-form please contact the Health, Safety and Wellbeing Team on 01254 585905.

*Please Complete

REPORTABLE INCIDENTS

Could the incident be RIDDOR reportable? Yes No Help

DETAILS OF PERSON INJURED/AFFECTED OR WHO IS REPORTING THE NEAR MISS

Surname *

Forename *

Reportable incidents fields do not need to be completed, the Health and Safety Team will manage this on behalf of all Councillors.

DETAILS OF PERSON INJURED/AFFECTED OR WHO IS REPORTING THE NEAR MISS

Surname *

Forename *

Address Line 1 *

Address Line 2

Town *

Post Code *

Date of Birth * ...

Gender * Male Female

Category of Person * COUNCILLOR ▼

1. Complete the details of persons injured or affected ensuring that the Councillor is selected in the category of person field.

INCIDENT DETAILS

Directorate *

Division *

Date of Incident *

Time of Incident * use 24hr clock (format hh:mm)

Location where it happened *

Describe exactly what happened and exactly where the accident/incident or near miss occurred *

2. Complete the incident details ensuring that in the of 'Directorate' and 'Division', 'Councillors' are selected. The 'Location' field has most Council building or locations listed but it is recognised that Councillors may have other locations they may work in as part of their duties. If the Location is not available please select Councillor duties and in the description of the incident detail the exact location where possible.
3. It is important that there is enough information within the description of the incident to allow the Health & Safety and Governance Team give the appropriate advice.

Give details of any injuries/effects on the person and include any first aid treatment or support given or potential harm that could have been caused if you are reporting a near miss. *

Type of Injury *

Part of body affected *

4. Fill in the fields as appropriate to the incident or accident

Describe the findings of the investigation into why the accident/incident happened *

Give details of witnesses or any other people involved *

What action has been taken to control the risk and prevent a reoccurrence? *

5. If the incident was investigated or there was witnesses please provide the information or where appropriate indicate 'N/A'.

What action has been taken to control the risk and prevent a reoccurrence? *

NAME OF PERSON REPORTING THIS ACCIDENT/INCIDENT OR NEAR MISS

Full Name *	<input type="text"/>
Contact Tel *	<input type="text"/>
Your Email *	<input type="text"/>
Managers Email *	<input type="text"/>

6. This part of the form asks the individual involved in the incident to give consideration to ways they may have for preventing or minimising the impact the incident may have had. All Councillors are asked to consider this in line with guidance supplied on Personal Safety and Health & Safety.
7. The personal details of the person reporting the incident allows the team to support an individual and help in regards to any follow up that may be appropriate.
8. In the Manager Email field we would ask that Councillors fill in the following email details:
XXXXXXXXXX
This will ensure that Govenamnce team are notified of any incident and can support where appropriate.

NAME OF PERSON REPORTING THIS ACCIDENT/INCIDENT OR NEAR MISS

Full Name *	<input type="text"/>
Contact Tel *	<input type="text"/>
Your Email *	<input type="text"/>
Managers Email *	<input type="text"/>

9. Finally when all details have been completed correctly, click submit. This then send the incident for review by the Corporate health and Safety team and any foolkwoup by the Govenance team.

Should the incident require further investigation the Governace team will investigate the incident and respond directly with the Councillor.

Any information and reports contained within the system meet the requirements of the Council Data Protection obligations. Information when reporting will be anomomised to ensure confidentiality.







REPORT OF: DIRECTOR OF HR & LEGAL & GOVERNANCE

TO: STANDARDS COMMITTEE

ON: 4th March 2020

SUBJECT: Work Programme 2019/20 – Councillors & Social Media

1. PURPOSE OF THE REPORT

To consider the advice available for Councillors in respect of Social Media.

2. RECOMMENDATIONS

The Standards Committee is asked:

To review the current LGA advice available in respect of Councillors and Social Media and make any recommendations.

3. BACKGROUND

At their meeting on 26th June 2019 the Standards Committee agreed the work programme for 2019/20.

It was agreed that at this meeting that the Committee would Review Social Media Guidance for Elected Members.

The Council has over the years provided training to members and provided general support and guidance. More recently as reported elsewhere on this Agenda, at their meeting in January the Committee reviewed the Local Government Association (LGA) Guide to handling intimidation for Councillors. The full Guide is available to download in full via the link below.

www.local.gov.uk/councillors-guide-handling-intimidation

The LGA have confirmed this Guide will be continuously updated with the latest advice and information available.

The Guide also provides specific links to general social media guidance covering key points such as:

- Social media being very useful in getting feedback on proposals and communicating information about councillors' activities

- Councillors needing to acknowledge that Social media is always on, so members should consider setting personal limits and establishing a personal routine
- Councillors being aware that they are subject to the council's code of conduct when using social media

The specific section can be accessed via this link:

<https://www.local.gov.uk/councillors-and-social-media>

The guidance then expands to describe further:

- Why Councillors may find Social Media Useful
- On-line Safety, personal security and digital citizenship
- Responsibilities of Councillors on Social Media
- Managing and moderating a Councillors own Group or page

The Guide also goes on to provide advice on handling intimidation and abuse online via this specific link:

<https://www.local.gov.uk/handling-abuse-social-media>

As the Committee will be aware all Councillors have been provided links to this Guidance directly last year and the Standards Committee is now asked to review this Guidance and make any recommendations for further action.

4. RATIONALE

The Standards Committee's role and function includes oversight of the development of quality information to support members in their roles as decision makers and Ward councillors. The national Guide in its introduction describes becoming and serving as a councillor as a responsibility, a privilege and a hugely rewarding undertaking. It describes how social media has become an every-day communications tool for councillors and the people they represent, and the potential for councillors using social media is huge. Social media allows Councillors to be innovative and responsive as well as providing links to useful sources of information or sign-posting to other organisations.

However Social Media also presents different challenges for Councillors in undertaking their safely and effectively. For example, Councillors are personally responsible for the content they publish on any form of social media. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a defamation action for which you will be personally liable. The same applies if a Councillor passed on any similar untrue statements they receive.

Another example is fully acknowledging and understanding that social media sites are in the public domain and how important it is, to ensure Councillors are confident of the nature of the information they publish. Once published, content is almost impossible to control and may be manipulated without a Councillor's consent, used in different contexts, or further distributed.

5. POLICY IMPLICATIONS

There are no direct policy implications from the report.

6. FINANCIAL IMPLICATIONS

There are no financial implications from this report.

7. LEGAL IMPLICATIONS

The LGA Guide confirms that *“The code of conduct for members and relevant legislation continues to apply online and in social media. If you (a Councillor) are referring online in any way to your role as a councillor, you are deemed to be acting in your “official capacity” and any conduct may fall within the code.”* In addition as set out in this report Councillors are subject to the same legal duties and obligations as any member of the public, i.e. Councillors are personally responsible for the content they publish on any form of social media. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a defamation action for which they would be personally liable. As councillors are personally responsible for the content they publish, the Council cannot cover or be held liable for any damages arising councillor’s postings etc on social media.

8. RESOURCE IMPLICATIONS

Support to members by the provision of local advice and support is provided via existing resources in the HR, Legal & Governance team.

9. EQUALITY IMPLICATIONS

There are no equality implications as the Guide has been produced to support a healthy democracy and provide guidance to councillors supporting existing legislation designed to protect not only councillors but the general public as a whole and ensure that equality of treatment and access to advice and services for all are maintained.

10. CONSULTATIONS

The Standards Committee is being consulted through this report.

David Fairclough
Monitoring Officer

Contact Officer: David Fairclough
Date: 21st February 2020



REPORT OF:	The Monitoring Officer
TO:	Standards Committee
DATE:	4 March 2020

SUBJECT: Complaints Update to the Standards Committee

1. PURPOSE OF THE REPORT

To update Members on complaints received regarding Members conduct under the Arrangements for dealing with complaints about the Code of Conduct for Members up to 31st January 2020.

2. RECOMMENDATIONS

The Committee is asked

- to note the update report on complaints during December 2019 and January 2020
- to consider recommending to Full Council an update of the Arrangements for dealing with complaints about the Code of Conduct for Members to make it explicit that legislation does not provide for suspending/dismissing elected members as set out in this report
- to agree that a report on updating guidance on `two hatted` councillors be brought to a future meeting of the Standards Committee

3. BACKGROUND

The Committee has a role in considering any complaints received relating to the conduct of Members of the Borough Council, co-opted Members and Parish Councils in its area. Members will be aware that not all complaints are proceeded with for various reasons (unsubstantiated complaints, vexatious complaints etc.) however it is important that members are aware of receipt of these and legitimate complaints that are being processed and progressed.

Members of the Committee are to be kept up to date on receipt of all complaints and progress at meetings of the Standards Committee where appropriate subject to any relevant provisions relating to confidentiality.

In December 2019/January 2020 there have been 7 complaints received by the Monitoring Officer covering 5 different Councillors.

Case 1 – Councillors Kay, Sidat, McFall and Groves

In this first case the issue of confidentiality does not arise as the matter is already in the public domain and the outcome is subject to public apologies from the Councillors concerned.

On 12 December 2019, the Daily Mail published a story, which included reference to a `facebook` post by Councillor Kay in 2014.

2 complaints were received regarding this alleged `anti-Semitic` post and also the fact that this post was `liked` by 3 other Councillors, i.e. Councillors Sidat, McFall and Groves.

These complaints were considered in accordance with the `Arrangements for dealing with complaints about the Code of Conduct for Members` as set out in the Council's constitution (copy attached as an appendix to this report ease of reference).

Under these `Arrangements` the Monitoring Officer must make an initial assessment as regards whether the Complaint merits investigation or another course of action and do so following consultation with the Independent person.

Exceptionally in this case the Monitoring Officer is publishing his decision which was contained in a comprehensive written decision notice to the complainants as follows:

“Decision

It is without dispute that the `Facebook post` that is the subject of this complaint was posted in 2014 by Councillor Kay and he accepts its content and that he describes this as an error in that his words “may have been better chosen”.

All four Councillors confirm their errors of judgement as regards the need to take more care in being clear about wording and `liking` posts:

Councillor Kay “...there is no intention in my words to any individual or to any religious, ethnic or racial group. If anyone has taken personal offence at my words, I sincerely apologise, as there was and is no intention to offend individuals”

Councillor Groves “I apologise again if this incident has caused any distress to anyone”

Councillor McFall “If unfortunately someone has taken offence I am more than happy to apologise”

Councillor Sidat “If by liking the article I may have upset anyone then I am sincerely sorry and apologise whole heartedly for liking the post.”

The complaint is only raised some 5 plus years later with no intervening matters of concern being raised prior to this.

The allegation is that there has been a Breach of the Code. What is clear is that all the Councillors acknowledge they should have taken more care and as a result, their actions have given rise to this complaint, some 5/6 years later. On the balance of probabilities, it would be reasonable to conclude that there was no deliberate intention to make an Anti-Semitic comment/`like` which otherwise would clearly breach the Code of Conduct.

There have been no complaints made about any of the four councillors at the time or in the intervening years. The balance of evidence is that although an inappropriate comment was made and `liked` this was due to poor wording and poor social media practice as opposed to any underlying `anti-Semitic` behaviours.

I have taken into account also that all the Councillors have acknowledged they made an error and apologised unreservedly. I am also aware that Councillor Kay is no longer an Executive Member or representing the Council on Outside Bodies etc.

In view of the above and having considered all the circumstances, I consider that there would be no overriding public benefit from carrying out further investigations and taking into account the inevitable costs that would be incurred from this.

I have also taken the view that a referral to a Sub Committee of the Standards Committee as an exceptional circumstance is not required in this matter.

With all the Subject Members expressing their apologies, they should be requested however to agree these be reported publically to the next meeting of the Standards Committee in March 2020. In addition, the Subject Members will be required to attend Social Media training refresher courses.

Should any Subject Members not comply with this suggested resolution, then the matter may be referred to the Standards Committee for their consideration.”

All four Councillors accepted the Monitoring Officers decision and confirmed their apologies be reported in public at this meeting.

A complainant further sought an explanation why there was not an initial suspension and potential dismissal of the Councillor(s) however it was explained that the Council does not have legal powers to suspend or dismiss any councillor. It was advised that the only sanctions available to the Council & Council Standards Committee – Hearing Panel in the event a matter was brought before them were those set out in Paragraph 13 of the `Arrangements for dealing with complaints about the Code of Conduct for members (attached).

In this very openly public case it became obvious to the Monitoring Officer that there was an expectation from a number of interested parties including the media reporting this matter that the `Arrangements for dealing with complaints about the Code of Conduct for members`, included an option for suspension, pending investigation and/or later dismissal from office. Albeit the `Arrangements for dealing with complaints about the Code of Conduct for members does not and, cannot make such a provision.

As indicated above these options are not provided for in legislation and the powers available to the Council in the event of an alleged breach of the Code of Conduct, are only those as set out in the current `Arrangements for dealing with complaints about the Code of Conduct for members`.

It is suggested therefore from experience of this case that under the introduction to these Arrangements that the following could be added to make the position explicit at the outset for complainants, subject members, other Councillors and any other interested parties:

Paragraph

- 1.5 There are no powers in legislation and therefore under this complaints process for the suspension or dismissal of an elected councillor. In the event of a councillor being found in breach of the Code of Conduct only the sanctions as set out in Paragraph 13 below apply.

Case 2 – Complaint re Tree Preservation Order

3 separate complaints were received relating to 1 councillor who was alleged to have misrepresented a matter regarding a TPO. The first complainant did not pursue their complaint. In respect of the remaining two complainants the Monitoring Officer reviewed the complaints and representations received with the Independent Person and it was concluded that, the allegation did disclose a potential breach of the Code of Conduct, but the complaint was not serious enough to merit any action. In addition, the resources needed to investigate and determine the complaint, given all the information currently available, would be wholly disproportionate to the allegations, and also the Monitoring Officer therefore in all the circumstances could identify no overriding public benefit in carrying out an investigation.

In this case there was been some concern about the role being undertaken by councillors who may hold different positions (e.g. Parish Councillor & Borough Councillor), potential conflicts of interest and who they be being seen to represent at any given time. Previously the Committee has considered the challenges presented by Councillors wearing `two hats` and the Monitoring Officer is proposing to present a report to a future meeting of the Committee to review current advice and update this as appropriate following experience from this case.

Up to 31st January 2020 there were no further complaints received under the Members Complaints Procedures.

The Monitoring Officer has prepared this report for consideration by the Standards Committee.

4. RATIONALE

The Localism Act requires Councils to put in place mechanisms for reporting and investigation of complaints. This report provides information for the Standards Committee in a clear and transparent way to ensure that all members of the committee are aware of complaints received, progress and outcomes.

5. LEGAL IMPLICATIONS

The Council has adopted the Code of Conduct and the arrangements for dealing with member complaints in the Council's Constitution (set out in the Appendix attached), which it must follow when a formal complaint is received.

There is no legislative power for the suspension/dismissal of elected members which is reflected in these Arrangements for dealing with member complaints (set out in the Appendix attached). The sanctions available to the Council Standards Committee – Hearing Panel in the event a matter was brought before them are those set out in

Paragraph 13 of the `Arrangements for dealing with complaints about the Code of Conduct for members (attached).

The Monitoring Officer must ensure the Council acts lawfully and the Monitoring Officer must act in accordance with the Arrangements for dealing with complaints about the Code of Conduct for members and act impartially and objectively in consultation with Independent Person in handling complaints.

6. POLICY IMPLICATIONS

A governance framework in local authorities is necessary to promote and maintain high ethical standards, and to ensure public confidence.

7. FINANCIAL IMPLICATIONS

None contained in this report.

8. CONSULTATIONS

The Council's arrangements for promoting and maintaining high standards of conduct have been discussed by the Standards Committee and the arrangements for dealing with complaints about the Code of Conduct for Members are the subject of this report, to ensure openness and transparency to Members of the Committee on complaints received and progress.

Chief Officer/Member

Contact Officer: David Fairclough

Date: 18 February 2020

Background Papers: The Localism Act 2011