

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
STANDARDS COMMITTEE

Minutes of the Meeting held on 28 February 2023 at 6.00 pm

Present:-

Cllr D Kelsey – Vice-Chairman (In the Chair)

Present: Cllr M Andrews, Cllr A Filer, Cllr A Jones, Cllr L Northover,
Cllr V Ricketts and Independent Persons, Mr P Cashmore and
Mr I Sibley

19. Apologies

An apology for absence was received from the Chair of the Committee, Councillor Borthwick.

Councillor Kelsey, Vice-Chair of the Committee, in the Chair.

20. Substitute Members

There were no appointed substitute members.

21. Declarations of Interests

Councillor Filer and Councillor Kelsey both declared an interest in Agenda item 7 and advised the Committee that they would leave the meeting during the consideration of this item.

22. Confirmation of Minutes

RESOLVED that the Minutes of the meeting of the Committee on 17 January 2023 be confirmed as a correct record.

23. Public Issues

The Committee was advised of the receipt of three Public Questions.

Public Questions from Mr Alexander McKinstry

Public Question 1.

With regard to Complaint No 132, which is Item 7 on tonight's agenda: this arose following an e-mail sent by the subject councillor on 18 January. The complaint was made, by an Independent councillor, on 26 January. What action did the Chair and Vice-Chair of this Committee, who were both recipients of that e-mail, take during the intervening seven days? Did they, for instance, raise concerns with a senior officer?

Response

Details of these matters are being considered by the Standards Committee as Confidential (Exempt) business for the reasons stated and therefore, except for the Monitoring Officer's Report which is a public document and

set out in Agenda item 7 on page 17 of the agenda for the meeting, further background details about the case will not be publicly available at this stage.

Public Question 2.

Will the Chair and Vice-Chair be recusing themselves from discussion of Complaint No 132? There may be perfectly sound and compelling reasons why they will not be looking to recuse themselves, but given the public interest in this complaint, it would be useful to hear those reasons in the open part of the meeting.

Response

It is a decision for individual Councillors as to whether they will declare an interest and what action they propose to take. Specifically, at Agenda item 3 Councillors are requested to declare any interests on items included in the agenda and to refer to the workflow provided at the front of the agenda for guidance. Declarations received are reported at the meeting.

Public Question 3.

Given the public interest, can the e-mail sent by the subject councillor on 18 January be released to the general public, along with any councillors' replies?

Response

Once again, details of these matters are being considered by the Standards Committee as Confidential (Exempt) business for the reasons stated and therefore, except for the Monitoring Officer's Report which is a public document and set out in Agenda item 7 on page 17 of the agenda, further background details about the case will not be publicly available at this stage.

24. Code of Conduct Complaints - Review

The Committee received the regular schedule of completed and ongoing complaints against Councillors with cases shown as closed in the previous report removed from the list.

The adopted arrangements for dealing with allegations of breach of the Code of Conduct were set out. These included the arrangements for initial assessment by the Monitoring Officer and the process for determination of complaints by the Chair of the Standards Committee in consultation with Councillors of the Standards Committee and the Independent Persons.

The Committee reviewed the table of complaints setting out, in each case, the nature of the complaint and, where applicable, the Monitoring Officer's assessment, the decision of the Chair and the current status of the complaint.

The Committee commented on the number of complaints where there continued to be delay in reaching a successful conclusion and it was noted that there were a number of complaints where the subject Councillors had not complied with a determination made by the Chair of the Standards

Committee following informal resolution. Particularly, these included cases where a request to provide an apology had not been complied with.

Although the circumstances surrounding each case of non-compliance were different, the Committee was of the view that specific detail should be provided to the Committee in order that the Committee could consider a way forward in each case in the light of non-compliance.

After discussion, and agreement that this needed to be progressed as quickly as possible and within the pre-election period, it was

RESOLVED that a meeting of the Standards Committee be held on Monday 13 March 2023 commencing at 10am.

Voting – Unanimous

Declaration of Interest

At this point in the meeting Councillor Kelsey and Councillor Filer left the meeting in accordance with their declarations of interest made at agenda item 3.

Election of Chair

It was proposed by Councillor Andrews, seconded by Councillor Northover and

RESOLVED that Councillor Ricketts be elected as Chair of the Committee for the consideration of the remaining items of business.

Voting – Unanimous

Councillor Ricketts in the Chair.

Election of Vice-Chair

It was proposed by Councillor Ricketts, seconded by Councillor Northover and

RESOLVED that Councillor Andrews be elected as Vice-Chair of the Committee for the consideration of the remaining items of business.

Voting – Unanimous

25. Consideration of a report in respect of Code of Conduct Complaint BCP132

By way of introduction, it was explained that on 26 January 2023 the Council had received a complaint from Councillor Stephen Bartlett (“complainant”) that Councillor Mark Anderson (“subject Councillor”) had breached the Code of Conduct applicable to Councillors of BCP Council. The complainant considered that the subject Councillor had breached the provisions of the BCP Council Code of Conduct and the specific parts of the Code which had been allegedly breached were set out.

The Monitoring Officer explained that an investigation of the complaint had been conducted (under reference BCP – 132) by an experienced independent investigator who undertook interviews with the complainant, with the subject Councillor, with further Councillors and with officers before

reaching a conclusion. The conclusions were based upon the current legal framework which set out the parameters within which Councillors are subject to a Code of Conduct. The appointed independent investigator's report had been included within the agenda as a confidential (Exempt) Appendix 1 together with the appropriate background evidential material.

Due to the serious nature of the concerns raised in the complaint, the Chief Executive and Monitoring Officer had also relayed the circumstances of the complaint to Dorset Police on 27 January 2023. The Committee was advised that the outcome of this consideration by Dorset Police was that there was insufficient evidence to justify further investigation although that had the initiative already been implemented and Council funds committed, there may have been a need for further consideration of the matter.

It was reported that the independent investigator had concluded that there were three grounds with sufficient evidence to uphold the complaint. The Committee was asked to consider this report of the Monitoring Officer and the investigator's report.

The meeting was addressed by Councillor Broadhead (Group Leader of the Conservative Group) who explained the absence of the subject Councillor from the meeting due to health reasons which he outlined. The Monitoring Officer provided advice to the Committee about the implications of continuing in the absence of the subject Councillor. Although this remaining a decision for the Committee, the Monitoring Officer considered that the subject Councillor could not add any additional information at this stage to what had already been provided to the Committee.

The Independent Persons present at the meeting indicated their support for the process of investigation undertaken.

25.1 Exclusion of Press and Public

It was proposed by Councillor Ricketts, seconded by Councillor Northover and

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

Voting – Unanimous

25.2 Consideration of a report in respect of Code of Conduct complaint BCP132 - Exempt business

The Committee agreed a procedure for the meeting with the objective of making a finding of fact; a decision on whether the Code of Conduct had been breached and, if applicable, a decision on any sanctions which should be applied.

The Committee considered in detail the report of the independent investigator and there was the opportunity to raise specific questions of the investigator about her report.

The complainant Councillor addressed the Committee.

The Committee retired, with the Independent Persons and with the Monitoring Officer and with the Head of Legal Services to consider their decision.

After a period of deliberation, the Committee reconvened in open business.

The Chair of the Committee reported that, during confidential (Exempt) business the Committee had given very careful consideration to the complaint and to all the evidence submitted to the Committee and given particular consideration to all of the recommendations made by the independent investigator. The Chair reported that the Committee had considered, in turn, each of the relevant provisions of those parts of the Code as highlighted by the investigator.

Breaches of the Code of Conduct

RESOLVED that the Standards Committee considers that

- (a) **Code of Conduct provision 1.1 (I treat other councillors and members of the public with respect).**

The subject Councillor was in breach of this part of the Code in that he failed to treat other Councillors with respect; did not show courtesy to Councillors by not emailing ward Councillors or advising other members of Council and that he involved activists.

- (b) **Code of Conduct provision 1.3 (I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play).**

The subject Councillor was not in breach of this part of the Code.

- (c) **Code of Conduct provision 3.1 (I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority).**

The subject Councillor was in breach of this part of the Code for the reasons set out by the independent investigator.

- (d) **Code of Conduct provision 5.1 (I do not bring my role or local authority into disrepute).**

The subject Councillor was in breach of this part of the Code for the reasons set out by the independent investigator.

- (e) **Code of Conduct provision 6.1 (I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else).**

The subject Councillor was in breach of this part of the Code for the reasons set out by the independent investigator.

- (f) **Code of Conduct provision 7.1 and 7.2 (I do not misuse council resources and I will, when using the resources of the local authority or authorising their use by others:(a) act in accordance with the local authority's requirements; and (b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed).**

The subject Councillor was in breach of this part of the Code. This was a Politically motivated mis-use of resources through emails in support of a campaign.

Voting – Unanimous

Findings and sanctions

RESOLVED:-

- (a) That Councillor Mark Anderson (“the subject Councillor”) has breached the Council’s Code of Conduct on a number of serious points and has acted in a Politically motivated way to try to gain Political advantage ahead of a local election;
- (b) That the subject Councillor has abused his position as a member of this Council and therefore we would express our concern and dissatisfaction about his conduct and therefore apply the following sanctions:
- i. That it be recommended to the Leader of Council that the subject Councillor be removed from the Cabinet and his portfolio responsibilities;
 - ii. That the subject Councillor makes an ‘in person’ apology to full Council on 21 March 2023.
- (c) That the Monitoring Officer arranges for refresher training on the Council’s Code of Conduct to be delivered to all Councillors as soon as is reasonably possible;
- (d) That the above training be specifically provided for the subject councillor and those Councillors and officers referred to in paragraph 8 (Method of Investigation) of the independent investigator’s report.

Voting – Unanimous

The Chair advised the Committee that there were other areas of concern that the Committee had, not relating directly to the complaint, and that they would accordingly be asking the Chief Executive to conduct a thorough investigation around the matters that were of concern to them.

The meeting ended at 8.47 pm

CHAIRMAN

Investigation into a complaint that Cllr Mark Anderson of BCP Council may have breached the Council's Code of Conduct

1. The Complainant

Cllr Stephen Bartlett is an Independent member of the Council, having been first elected at a predecessor Council in 2015. For the 2 years of his political career he was a Conservative Member. He is a former Chair of BCP Overview and Scrutiny Board.

2. The Subject Member

Cllr Mark Anderson has been a Conservative Member of the Council since its creation and was also a member of the predecessor Council in Bournemouth. In total he has been a Councillor since 2007. He has been a member of BCP Council's Cabinet and the portfolio holder for Environment and Place for two years.

3. The event giving rise to the complaint

3.1 In January 2023 the Subject Member began email correspondence with his fellow Conservative Group Councillors about an initiative he intended to commence, which he referred to as the "Big spring clean". In his emails he explained that he was arranging some street cleansing operations and asked his colleagues for suggestions as to locations where this could best be targeted. The Complainant believes that in his email Cllr Anderson indicated that the target areas should be those where the Conservative Group would benefit from favourable publicity in the lead up to the coming elections in May.

3.2 A timeline of and relevant extracts from the email exchanges between Cllr Anderson and his Group members, and also with the relevant Director, are annexed to this report as Appendix 1.

3.3 It appears from the email exchanges that I have seen that some of Cllr Anderson's fellow Councillors did not respond to his group email. A number of others responded entirely appropriately, with their suggestions appearing to be based on where they saw the greatest need for residents or what would benefit the area as a whole. A small number appear to have engaged with the idea of using the proposed activity as a profile raising/campaigning opportunity. I have seen no examples of any recipient of the email querying the use of Council funds or resources in this way, or about whether Cllr Anderson's use of resources within his area of responsibility was either appropriate or possible.

3.4 It should be noted that the pre-election period, where the Council should engage only in 'business as usual' and should not allow any of its activities to be utilised or publicised for political purposes, routinely begins in late March and therefore the April/May timescale by which the project was to be completed would fall squarely within this period.

3.5 In his email to his fellow Cabinet members (and Lead members) on 15 January Cllr Anderson forwarded the list of areas provided by the Director of Environment for the 'Big spring clean' but asked for alternative suggestions, stating *The attached is historically areas that have needed it, I want these to be of benefit to us so please have a look at this list and suggest a site if you think it would be more useful to us.*

Appendix 1 – REDACTED VERSION FOR PUBLICATION

3.6 On 17 January Cllr Anderson forwarded a suggestion for a target area (including a bus station) to Cllr B stating *If I OK this deep clean for the bus station can [REDACTED]/PCA make sure they publicise this widely as a BCP Conservative initiative? I'll confirm dates later.*

3.7 On 18 January Cllr Anderson informed the wider Conservative Group members of the 'Big spring clean' initiative. His email included the following phrases:-

We are looking at discrete areas within the urban conurbation and I will expect you to be seen helping at your selected area, the idea is to raise your profile as much as it is to show the conurbation that we are cleaning our streets.

I have a list of historical areas that have caused issues in the past suggested by officers BUT I would rather have your suggestions.

Let me have your suggestions, they don't have to be equally spread through the conurbation and if Association Chairman believe they can get enough publicity etc and support from candidates in wards we don't hold I will also consider those.

4. The Complaint

4.1 When the Complainant became aware of the nature of the Subject Member's email to his Group he brought it to the attention of the Council's Monitoring Officer. He also submitted a formal complaint alleging that the Code of Conduct had been breached.

4.2 The Complainant alleges that the Subject Member has breached the Code by an attempted misuse of public funds, that is by attempting to use publicly funded Council services in a way which would promote a political party.

4.3 The Complainant alleges that the Subject Member has failed to observe the general principles set out in the Code of Conduct for Members adopted by BCP Council:-

In accordance with the public trust placed in me, on all occasions:

- *I act with integrity and honesty*
- *I act lawfully*
- *I treat all persons fairly and with respect; and*
- *I lead by example and act in a way that secures public confidence in the role of councillor.*

In undertaking my role:

- *I impartially exercise my responsibilities in the interests of the local community*
- *I do not improperly seek to confer an advantage, or disadvantage, on any person*
- *I avoid conflicts of interest*
- *I exercise reasonable care and diligence; and*
- *I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.*

4.4 In addition, the Complainant alleges that the Subject Member has breached the following paragraphs of the Code of Conduct:-

Appendix 1 – REDACTED VERSION FOR PUBLICATION

- 1.1 *I treat other councillors and members of the public with respect.*
- 1.2 *I treat local authority employees, employees and representatives of partner organisations and those volunteering for the authority with respect and respect the role they play.*
- 3.1 *I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the authority.*
- 5.1 *I do not bring my role or authority into disrepute.*
- 6.1 *I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.*
- 7.1 *I do not misuse council resources.*
- 7.2 *I will, when using the resources of the local authority or authorizing their use by others: (a) act in accordance with the local authority's requirements; and (b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.*

4.5 The Complainant believes that as a result of the alleged breaches the Subject Member should be asked to resign from the Cabinet.

4.6 Following receipt of the complaint Cllr Anderson was interviewed by the Council's Chief Executive and Monitoring Officer, primarily to inform him that a complaint had been made which was going to be investigated and could result in a reference to the Council's Standards Committee. Cllr Anderson was accompanied by a colleague from his Group. I have seen a note of that discussion which took place on 30 January. At the time of this interview, the Chief Executive and Monitoring Officer were aware only of Cllr Anderson's email to his wider political group dated 18 January 2023. They were not aware of his email to his fellow Cabinet members (and Lead members) three days earlier on 15 January.

4.7 In his initial response to the Chief Executive and Monitoring Officer the Cllr Anderson said that he had been getting lots of complaints about street cleaning and claimed that he had emailed those Councillors who had been contacting him about it. He suggested he could show the officers a number of WhatsApp messages on his phone to demonstrate that he had been receiving complaints and mentioned a Councillor from another political group who had also raised the issue. The note of this meeting suggests that when it was pointed out to Cllr Anderson that this other Councillor had not been sent the email of 18 January, Cllr Anderson was unable to account for this. The note also records that Cllr Anderson [REDACTED] said that he should have thought more about the email's contents before sending it. Both Cllr Anderson and his colleague mentioned that more training may be required.

4.8 The note indicates that Cllr Anderson was unable to provide a good rebuttal to the suggestion that his conduct was motivated by a desire to gain an electoral advantage.

4.9 As part of my investigation I spoke with the Director of Environment via a Teams call. I also spoke with a number of the Councillors who had responded to Cllr Anderson's emails in a manner which I considered relevant.

Appendix 1 – REDACTED VERSION FOR PUBLICATION

4.10 The Council’s Director of Environment was extremely helpful in explaining the background to the street cleansing project under discussion. She was clear that this was not an ‘additional’ activity and that funding was available due to low expenditure elsewhere during the Covid period and due to having carried staff vacancies. This was not a novel project and in fact ‘community clean up days’ had happened before. She told me that a number of people, including officers and Councillors, had raised concerns with her about areas of untidiness and she knew that historically five locations each across the three Council areas had tended to be nominated for this activity.

4.11 The Director confirmed that there was nothing unusual in the discussions surrounding the cleansing project and she clarified that there was no significance in the fact that some of this would be carried out on Saturdays. Staff are commonly engaged in this work on Saturdays. With hindsight she is mortified at the use by her of the phrase “*where politically you want to split those across B.C & P is up to you really*” in her email to Cllr Anderson dated 17 January. At the time she sent that email she had not considered there to be anything exceptional about this project. It was a repeat of other similar activity and she had not considered that there was any party-political element to it.

4.12 The Director confirmed to me that she finds Cllr Anderson pleasant to work with and that he is supportive of her Directorate’s work. She had never experienced any inappropriate pressure from him to act in a particular way. She was not a party to Cllr Anderson’s subsequent emails to his political Group members and – until notified of the complaint which had been brought against Cllr Anderson - was unaware of the substance of those emails.

4.13 I have also spoken to Cllrs A and B, both of whom responded to Cllr Anderson’s emails in a manner which tends to demonstrate that they understood him to be requesting suggestions for areas to be cleansed which would be politically advantageous to their Group. Both Councillors were pleasant and forthcoming in their discussions with me. Both acknowledged that, with hindsight, there was an issue with the suggestion that the clean up could be politically targeted. However, from my discussions with each of them I feel that their failure to pick up on any wrongfulness at the time was a lapse in judgement rather than a deliberate engagement. They were both apologetic. It is clearly common for members of the same political Group to discuss projects and initiatives amongst themselves and both Councillors felt Cllr Anderson’s email to be unusually phrased but fairly innocuous at the time.

4.14 Cllr D responded promptly to my initial email requesting to meet with her but provided a fairly restrictive set of days and times when she would be available, none of which were within the timeframe I had given her. I responded by asking to meet with her on Friday (the following day) but she did not reply any further.

4.15 Cllr D’s response to Cllr Anderson’s email included a suggestion by her that the ‘Big spring clean’ could be “publicised in the residents newsletter”. I have been unable to discuss the background to this with her. I believe it would have been helpful to know who publishes the newsletter and whether it is political in nature.

4.16 Cllr C told me that he was disturbed by the political tone of Cllr Anderson’s email but said that, rather than taking the opportunity to be critical, he was relieved that something appeared to be being done about street cleansing. It was a matter which he had been trying to get action on for some time. Cllr C said that he didn’t respond with suggestions based on a political objective but rather that he nominated areas which he considered to be genuinely in need.

5 Cllr Anderson’s responses

Appendix 1 – REDACTED VERSION FOR PUBLICATION

5.1 I interviewed Cllr Anderson via a Teams call on the evening of Monday 13 February. Also in attendance via Teams was [REDACTED] who was described to me as the Group Whip and who attended at Cllr Anderson's request. I was clear with both Councillors that my interview would seek responses from Cllr Anderson, only, and both of them were respectful of this throughout. Cllr Anderson confirmed that he was aware of the Code of Conduct but could not recall receiving training on this since his days at Bournemouth Council.

5.2 Cllr Anderson was clearly unwell during our discussion, having been suffering from a bad cold for much of the previous week. [REDACTED]

5.3 Cllr Anderson told me that the 'Big spring clean' became a focus because he had been receiving many complaints from Councillors and residents about a lack of street cleaning. He said he had spoken to both the Leader and the relevant Director about this and had approached the Council's Chief Executive trying to secure funds for some additional work. He was concerned that the Council's duty to keep the streets clean was not being met and that he had been raising the issue for at least a year.

5.4 Having had Cllr Anderson acknowledge that he sent emails to both the Cabinet (and Lead members) and the Conservative Group on the 15 and 18 January respectively, I asked him what he meant by the phrase 'leading to the locals' when informing his colleagues that a clean up was being proposed. Cllr Anderson denied that this meant that he wanted positive action to be taken in order for his Group to be seen favourably prior to the elections. Rather, he said that it was because after May there may be a new administration in place at the Council and beyond that date he may no longer be able to authorise this activity. Taken against the content of the email traffic in connection with this matter – that Conservative areas or winnable areas should be targeted and publicised in the run up 'to the locals', I find it difficult to accept that this is an accurate account of the reason for using this phrase. In addition, from my discussion with the Director for Environment it was clear that in fact the project under discussion was due to take place prior to the May elections. During my interview with him Cllr Anderson said the discussions were about 'the budget next year'. When I challenged him about this he told me that one of his emails was about an immediate clean up, and one was about officers adding to the work programme for next year. I do not accept this was the case.

5.5 When I asked Cllr Anderson why, in his email to the Group on 18 January he had stated '*.....and if Association Chairman believe they can get enough publicity etc and support from candidates in wards we don't hold I will also consider those.*' he was unable to explain this. He told me that the [REDACTED] (one of the email recipients) and he may have been thinking of that connection. Taken against the tone and content of the email as a whole, I found Cllr Anderson's comment on this unconvincing. The email tends to demonstrate that the cleansing operation was to be seen as a Conservative initiative and as an opportunity for publicity. Cllr Anderson's email clearly stated that officers had provided a list of proposed locations but that Cllr Anderson wanted suggestions from Conservative Councillors as to where cleansing should take place. His email included the phrase '*I will expect you to be seen helping at your selected area, the idea is to raise your profile as much as it is to show the connurbation that we are cleaning our streets.*'

Appendix 1 – REDACTED VERSION FOR PUBLICATION

5.6 Cllr Anderson denied to me that the project was going to be carried out exclusively in Conservative voting areas. He named a few areas which he said were included in the list he eventually sent to the Director and named two non-Conservative Councillors (Cllrs E and F) who had suggested them. I am unable to ascertain the accuracy of this. I asked him whether he considered it to be appropriate to send his email request for suggested areas only to Conservative Councillors. He explained [REDACTED] that he may have been 'lazy' and took the option of emailing his own Group with whom communications were easy due to known email addresses etc. He said [REDACTED] and with hindsight he should have asked someone else to organise the project.

5.7 I asked Cllr Anderson whether he considered that he may have breached the Code of Conduct. He said did not think that he had but said that if he was wrong he apologised. He said he is someone who upholds the law and that his emails had been written in good faith. He was concerned that his emails may have been misinterpreted and when I pointed out to him that their contents could be seen to be an attempt to arrange for a political advantage he said he did not recognise that as being something he would do. He did not know why he had included some of the phrases he used (for example '...wards we don't hold....') and said that if he was electioneering he would have asked officers for a whole schedule of events that he could have tried to use for this purpose.

5.8 In my view it should be acknowledged that Cllr Anderson [REDACTED]
[REDACTED]. It may well be that this impacted his behaviour and his judgement at the time the 'Big spring clean' was being proposed to his political Group.

5.9 However, I believe that a reasonable interpretation of the fairly plain wording of Cllr Anderson's emails would be that they were a focused and enthusiastic attempt to engage his fellow Group Members in a project which would be viewed favourably by residents and could be used as an opportunity to gain political advantage if targeted at particular areas.

5.10 I fully accept that Cllr Anderson may have been [REDACTED] and that this may have resulted in him 'forgetting' the need to ensure that a wider canvass of Members should be included in his request for suggested locations. However, the wording of his emails tend to indicate that his communication with Conservative colleagues only was in fact deliberate. As a senior (Cabinet) member in charge of a significant portfolio I believe his action could be viewed as a marked lapse in integrity.

Findings

6. Acting in his official capacity

6.1 The Code of Conduct applies to members of the Authority only when they are acting, or appearing to act, in their capacity as Councillors.

6.2 It is my view that Cllr Anderson was acting in his capacity as a Member of BCP Council when he began to engage with the street cleansing project and emailed his political group members asking for suggestions as to Wards to be targeted. He was using his BCP Council email account for these communications, the electronic signature for which describes him as:-

Conservative Councillor for Queen's Park
Portfolio Holder for Environment & Place

Appendix 1 – REDACTED VERSION FOR PUBLICATION

6.3 The subject matter (street cleansing and environment) were within Cllr Anderson's purview and were his specific areas of responsibility as a Cabinet Member of the Council. He made it clear in his emails that he was intending to direct the use Council resources.

7 The General Principles of Councillor Conduct

7.1 I note that the Complainant provided a list of the General Principles of Councillor Conduct (set out in the preamble to the Council's Code of Conduct and itemised at para 4.3 of this Report). He indicates that he believes all of these have been breached. These Principles are based on the Seven Principles of Public Life ('the Nolan Principles') but have been expanded upon and tailored by the LGA to be more specific to the role of Councillor.

7.2 The Principles are in effect guidance to Councillors and they are often referred to as 'underpinning' an authority's Code of Conduct. Although they can assist in interpreting the Code of Conduct they do not technically form part of the Code itself. Therefore, although I believe that the facts of this case do engage some elements of the Principles (namely; integrity/securing public confidence/impartiality/conferring an advantage/ensuring public resources are used in the public interest) they are not in themselves matters upon which this investigation has focused.

8. The Code of Conduct

8.1 (1.1) I treat other councillors and members of the public with respect.

Cllr Anderson failed to give the members of political Groups other than his own (and Lead members) the opportunity to provide their own suggestions for areas which might benefit from the street cleansing project. However, I do not believe that this can reasonably be said to amount to a lack of respect equating to the rude or demeaning behavior envisaged by the LGA Guidance when interpreting this part of the Code.

I have not found evidence that para 1.1 of the Code has been breached

8.2 (1.3) I treat local authority employees, employees and representatives of partner organisations and those volunteering for the authority with respect and respect the role they play.

Again, I do not consider that this element of the Code is engaged in this instance. I have seen no evidence that Cllr Anderson has shown overt disrespect to the officers involved.

I have not found evidence that para 1.3 of the Code has been breached

8.3 (3.1) I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the authority.

I have seen no evidence that the Director was personally pressured into any particular course of action. However, Cllr Anderson did forward to her a list of those areas which his fellow Group members had nominated for attention during the 'Big spring clean'. There is nothing in his email which indicates that he highlighted to her that only Conservative members had been canvassed. Although there is no evidence of an overt approach to the Director to address only areas that would be politically advantageous, it appears to me that there was a covert attempt to direct her towards

Appendix 1 – REDACTED VERSION FOR PUBLICATION

doing so. This would have caused her significant professional embarrassment if she were challenged as there is a requirement for local authority officers – particularly senior officers – to maintain political neutrality when carrying out their work. To be discovered to have acted with partiality, even if innocently, could have significantly compromised the Director’s position.

I consider that there is evidence of a breach of para 3.1 of the Code

8.4 (5.1) I do not bring my role or authority into disrepute.

Ordinarily, I consider that this element of the Code is engaged only where the conduct of a Councillor is so obviously egregious that the question of disrepute is unavoidable. It should not be used as an ‘add on’ or ‘catch all’ where other more relevant parts of the Code should be the focus. However, in this case it seems clear that if the public were to become aware that senior Councillors were prepared to use or divert Council resources to provide services to their preferred sections of the community, then this would bring both the role of Councillor and the Council itself into disrepute.

I note that one of the examples used in the LGA Guidance to the Code is “Where a councillor engages in conduct which directly and significantly undermines the authority’s reputation as a responsible service provider”. I do not believe a responsible service provider would direct its services to be used for political advantage in place of community need.

I therefore consider that there is evidence that the Subject Member has brought his role and the authority into disrepute

8.5 (6.1) I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

I consider that there is clear evidence – in the form of his emails to his political colleagues asking for suggestions for politically advantageous locations for street cleansing and his subsequent forwarding only of these suggestions to the relevant Director – that there was an attempt by Cllr Anderson to use his position as Cabinet member for Environment and Place to the advantage of himself and his fellow Conservative Councillors.

I consider that there is evidence of a breach of para 6.1 of the Code

8.6 (7.1) I do not misuse council resources.

I do not believe this part of the Code is engaged in this instance. “Resources” within the meaning of the Code tends to refer to items being personally used by the Member or under his direct control. In my view the words ‘misuse’ and ‘resources’ in this part of the Code refers to instances such as inappropriate material being downloaded onto Council devices, or inappropriate use of a room within a Council building. Although, technically, Cllr Anderson could be said to have been using his Council email account ‘for political purposes’ the emails in question were to his Conservative Councillor colleagues, only, and thus remained ‘internal’. In this instance he was not using his Council email address or portfolio holder credentials when promoting himself or his Group to external third parties.

Appendix 1 – REDACTED VERSION FOR PUBLICATION

I do not consider that there is evidence of a breach of para 7.1 of the Code

8.7 (7.2) I will, when using the resources of the local authority or authorising their use by others: (a) act in accordance with the local authority's requirements; and (b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

Against the current set of facts this paragraph of the Code does not differ from the preceding one (Code para 7.1) and therefore in the interests of fairness and proportionality should not be duplicated in the Complaint against Cllr Anderson. I consider 'resources' to have the same meaning as outlined previously and do not consider that this extends to the provision of Council services.

I do not consider that there is evidence of a breach of para 7.2 of the Code

8 Method of Investigation

In carrying out this investigation I have:

- Read the Complainant's email to the Monitoring Officer and his Complaint form.
- Read the note of the initial discussion between the Council's Chief Executive and the Subject Member
- Read a note of a discussion between the Monitoring Officer and the Independent Person and noted his support for the commissioning of an investigation
- Read email correspondence passing between the Subject Member and his political Group and the Director of Environment
- Met with the following via Teams meetings or telephone calls:
 - Cllr Mark Anderson
 - Cllr Stephen Bartlett
 - The relevant Director
 - Cllr A
 - Cllr B
 - Cllr C
- Attempted without success to meet with Cllr D

9 Responses of the Complainant and the Subject Member

A draft version of this report was shared with both the Complainant and the Subject Member with an invitation to correct any factual errors. A summary of their responses is as follows:-

Cllr Bartlett broadly accepts the findings of my investigation but does feel that disrespect has been shown to himself, other non-Conservative Councillors, officers and the public (para 8.1 above refers). He also feels there was a lack of respect to the Director (para 8.2 above).

Cllr Bartlett does not accept my findings set out in para 8.7 above (using Council resources for political purposes). He believes Cllr Anderson had direct control of the resources within his portfolio and feels that work was to be done on Saturdays to maximise the possibility of publicity for Conservative candidates. He does not agree with the Director's view that Saturday working was

Appendix 1 – REDACTED VERSION FOR PUBLICATION

unremarkable and states that street cleaning when most people would be at home and their parked cars would prevent road sweeping and thus be very wasteful and unproductive.

Cllr Bartlett has also commented that a possible explanation for no Conservative Councillors questioning the tone of Cllr Anderson's emails is that they had already been made aware of the project during the recent Conservative Group Meeting and that it had been, or would be, raised at informal Cabinet.

He has also commented that he had never heard of the Big spring clean policy. He says that the Conservative Group does not issue a Residents Newsletter and that Cllr D's email was likely referring to a Conservative Association Newsletter. He has also pointed out that, whilst Cllrs E and F are not currently Conservative Members of the Council, they are members of the Conservative-run Cabinet.

Finally, Cllr Bartlett believes it should be noted that during the current financial climate – where the Council is engaging in only vital expenditure due to the need to make savings – means that this additional, non-essential and unscheduled work was to be incurred at Cllr Anderson's direction this supports his view that the 'Big spring clean' was to be promoted for political purposes.

Cllr Anderson said that whilst he was disappointed with my conclusions he felt the data in my report was on the whole factual.

However, he does contest para 8.3, and in particular that he had only canvassed Conservative members. He refers to the fact that Cllr F responded to his email on 15 January and points out that Cllr F is not a member of the Conservative Group. He therefore disputes my statement that "only Conservative members had been canvassed".

Further, Cllr Anderson does not agree with my statement "it appears to me that there was a covert attempt to direct her towards doing so". He states that he provided a list of Suggestions by ward and then confirmed in a Teams phone call with the Director (10:09 1st Feb 2023) that [REDACTED] was arranging the routes and clearing based on Highways inspectors visits and data.

For the same reasons Cllr Anderson also disputes Paragraph 8.5 of my report as Cllr's E and F are not members of the Conservative group. He states that he also included requests from residents.

Janet Kealey

Solicitor

20 February 2023

Timeline and extracts of relevant emails which have been located on the Council's server.

Detailed below are the comments/exchanges which are most relevant to the complaint which has now been brought against Cllr Anderson:-

- 12 January The Director of Environment emailed Cllr Anderson suggesting five locations in each of the Council's areas (Bournemouth, Christchurch and Poole) where what she referred to as 'make a difference days' could be carried out.
- 15 January Cllr Anderson sent a group email to his fellow Cabinet Members in which he forwarded the Director's suggestions and said the following:-
- Dear All,*
- We want to do a few enviro/deep cleans around BCP in the coming weeks leading to the locals. The attached is historically areas that have needed it, I want these to be of benefit to us so please have a look at this list and suggest a site if you think it would be more useful to us. Bournemouth will have more as this is the area we are currently getting the most complaints from.*
- [REDACTED] *and I will be bringing it up in informal cabinet.*
- Mark*
- 15 January Cllr Anderson emailed the Director to query whether the project was restricted to five locations per area and also asked whether graffiti and gullies large activities were included, saying *I'm afraid I didn't list the other items you mentioned can you remind me?*
- 15 January Cllr F I replied to the group email stating *Poole Bus Station is an embarrassment to our town. Despite my "title" and my efforts with Future Places, nothing has improved. Any positive action would be appreciated. Thanks.*
- 15 January Cllr D's response included the phrase *I think this could then be advertised via the residents' association newsletter which goes out to 2000 residents.*
- 17 January The Director replied to Cllr Anderson to confirm that the project would include *cleansing, gullies flytipping, some bulky household waste, grounds maintenance e..g overhanging vegetation etc.*. She went on to explain that more than five locations per area would not be manageable prior to the end of April/beginning of May and said *where politically you want to split those across B.C & P is up to you really.*
- 17 January Cllr Anderson replied to the Director, saying
- Hi (Director), What do you need from us to launch this? and how soon can we start? Finally any news on sweepers? Mark*

Appendix 1 – REDACTED VERSION FOR PUBLICATION

17 January Cllr Anderson forwarded a suggestion from another Councillor for the bus station to be cleaned to Cllr B, stating:

If I OK this deep clean for the bus station can [REDACTED]/PCA make sure they publicise this widely as a BCP Conservative initiative? I'll confirm dates later.

17 January Cllr B replied to Cllr Anderson's email stating:

Yes, a deep clean of the bus station would be a good one as part of cleaner, greener, safer – let me know when this will be scheduled for and I will get the Poole Town team down there to take photos – before, during , after.

18 January Cllr Anderson sent an email to all Conservative Group members. The email subject header was "Big spring clean – location ideas" and it read as follows:-

Dear All,

As mentioned at informal group this week, I intend between now and the end of April/beginning of May introduce approximately 15 deep/enviro cleans across the conurbation, these will be carried out on Saturdays and will cover cleansing, gullies fly tipping, some Graffiti, some bulky household waste, grounds maintenance e.g. overhanging vegetation etc.

I now need to know where you would like this to be carried out? We are looking at discrete areas within the urban conurbation and I will expect you to be seen helping at your selected area, the idea is to raise your profile as much as it is to show the conurbation that we are cleaning our streets.

I have a list of historical areas that have caused issues in the past suggested by officers BUT I would rather have your suggestions. I already have one which is in the [REDACTED] area ([REDACTED] unless [REDACTED] would like to alter it).

(The areas previously mentioned were then listed here)

Let me have your suggestions, they don't have to be equally spread through the conurbation and if Association Chairman believe they can get enough publicity etc and support from candidates in wards we don't hold I will also consider those.

Mark

18 January Cllr Anderson sent a further email to the Group the same day stating:

Dear All,

Sorry I forgot to mention that we have also now hired TWO extra gully cleaners and I am hoping to get 4 extra street cleaners. These will be used in the areas outside the Enviro clean areas.

Mark

19 January Cllr A responded to Cllr Anderson's group email as follows:

Dear Mark

Appendix 1 – REDACTED VERSION FOR PUBLICATION

Thank you for consulting us.

Please would you add [REDACTED] (and [REDACTED] up to the junction with [REDACTED] [REDACTED]) to your list. I have daily complaints about the poor state of the footways and people saying that they are afraid of walking.

This is the area which will win or lose the election for [REDACTED] and me. It probably doesn't need a full enviro clean, because there are many residents here who are Dorset Devils and litter pick every time they walk – including me and [REDACTED].

But there are huge quantities of leaves and pine needles that have been lying on the verges and pavements for many months and have now turned to a very unsightly and slippery mush. Also the "ransom strips" which are managed by us on behalf of the [REDACTED] and which run alongside many of the blocks of flats are full of fallen branches, litter, weeds, etc.

Most of the large blocks are the equivalent of small villages, with many retired (and reliably Conservative) people living in them. So it's a relatively short stretch of road for your team to clean with a huge benefit in terms of customer satisfaction.

You might have to work your magic in getting different council departments to co-operate over this, as in the past it involved two different departments. But the result will be well worth it.

Many thanks

[REDACTED]

- 20 January Cllr Anderson re-sent his email to the Conservative Group members, stating
- Subject:** *Re: Big spring clean - location ideas*
- I have to collate and submit a list of locations on Monday so if you haven't contacted me by then you will miss out.*
- Mark*
- 20 January Cllr Anderson responded to an email from [REDACTED] where [REDACTED] had stressed the need for cleansing in fairly general terms:
- Hi [REDACTED],*
- I need a specific area if you want a deep clean, otherwise we are aiming to hire in extra road sweepers/gully cleaners.*
- Mark*
- 21 January Cllr C responded to Cllr Anderson's group email with a number of suggestions. His email included the comment *Please could you ask Officers to provide us with a programme of dates so that we can use the results of the works in a timely way.*
- 22 January Cllr Anderson emailed to the Director a Word document containing the list of street cleansing locations suggested by his Councillor colleagues, together with some of their comments about what was needed. He forwarded a further suggestion from a fellow Councillor the following day, and another one on 26 January.

This page is intentionally left blank