

STANDARDS COMMITTEE



Report subject	Consideration of Report in Respect of Complaint about a Councillor
Meeting date	6 October 2020
Status	Public Report
Executive summary	<p>This report provides the Standards Committee with the conclusions of the investigation following complaints made about Councillor Beverley Dunlop. The investigator's report is attached at Appendix 1. The conclusion of the investigator is that Councillor Dunlop did not breach the Code of Conduct, as she was not acting in the capacity of a councillor when posting to the Facebook group which resulted in the complaint.</p> <p>The Committee is asked to consider the investigator's report and accept the recommendations.</p>
Recommendations	It is RECOMMENDED that: the findings and recommendations of the independent investigator be accepted.
Reason for recommendations	<p>The investigation was conducted by an independent experienced investigator who undertook interviews with the complainant and the councillor concerned before reaching his conclusions. The conclusions are based upon the current legal framework which sets out the parameters within which councillors are subject to a Code of Conduct.</p>

Portfolio Holder(s):	Not applicable
Corporate Director	Chief Executive
Report Authors	Richard Jones, Head of Democratic Services Sian Ballingall, Interim Director for Law and Governance and Monitoring Officer
Wards	Not applicable
Classification	For Decision

Background

1. In November 2019 the Council received a complaint from a member of the public concerning a number of Facebook posts made by Councillor Beverley Dunlop. The complaint was logged and dealt with pursuant to the Council's arrangements for managing complaints about elected councillors.
2. This process involved the initial assessment of the complaint by the Chairman of the Standards Committee in consultation with the other members of the Committee and the three Independent Persons appointed by the Council.
3. The initial assessment by the Chairman was that the complaint was of a nature requiring an investigation.
4. The Monitoring Officer, at that time, appointed Mr Tim Darsley to undertake the investigation. Mr Darsley is an experienced investigator and independent of the Council.
5. He commenced his work in May 2020 and the methodology and evidence he considered are set out within his report, attached at Appendix 1.
6. It should be noted that the investigator's report is marked as 'confidential'. The Council is publishing this report with some redactions to the original confidential report and the appended report is a public document.

Conclusions of the investigator

7. Following consideration of the evidence and the legal framework applicable to such complaints, set out within his report, Mr Darsley concluded that Councillor Dunlop was not acting in her capacity as a councillor when making the relevant Facebook posts.
8. The Standards Committee is asked to consider the report of Mr Darsley at its meeting and the recommendation of the Monitoring Officer is to accept the findings of the investigator.
9. The Committee may, notwithstanding the findings of the report, wish to consider any general advice and recommendations for councillors in regard to the use of social media. It should be noted that social media training has been provided by the Council for all councillors. Additional training was scheduled to take place in April 2020 but this had to be cancelled due to the Covid-19 Pandemic.

Summary of financial implications

10. There are no financial implications arising from the recommendation that the Committee formally accept the conclusions of the investigator in relation to these complaints.

Summary of legal implications

11. The detailed legal basis for the investigation and reasons for the findings of the investigator are set out in his report.
12. The Monitoring Officer recommends that the Committee accept the findings of the investigator. Based on the evidence the investigator has obtained; the Monitoring Officer agrees with the investigator's conclusions based upon the current legal framework and caselaw.

Summary of human resources implications

13. There are no human resources implications arising from the recommended course of action.

Summary of sustainability impact

14. There are no sustainability impacts arising from the recommendation.

Summary of public health implications

15. There are no public health impacts arising from the recommendation.

Summary of equality implications

16. The report provides the Committee with details and recommendations arising from an independent investigation. The independent contractor has to comply with the Council's Equality's Policy when conducting the investigation.

Summary of risk assessment

17. There are risks that by accepting the recommendation that the public perception will be that councillors are able to publish information on social media in their private capacity which people could find offensive, and that this is unreasonable and inappropriate. It could therefore undermine the public's confidence in the Council and its powers to deal with these matters. However, the Council has to act in accordance with the legal framework that exists, and the powers the Council has through its Standards Committee relate to conduct undertaken by councillors when acting in that capacity. Other regulatory regimes may come into play should they be appropriate where councillors are acting in their private capacity. The risk of not following the recommendation is that the Council will be acting contrary to a clear recommendation of an independent investigator who has assessed the evidence, and contrary to the legal advice received.

Background papers

None

Appendices

Appendix 1 – Report of independent investigator