

STANDARDS COMMITTEE



Report subject	Consideration of a Report in Respect of Code of Conduct complaint BCP 132
Meeting date	28 February 2023
Status	Public with Exempt Appendix
Executive summary	<p>This report provides the Standards Committee with the conclusions of the investigation following a complaint made about a Councillor of BCP Council under reference BCP-132. The investigator's report is attached at Exempt Appendix 1. The investigator concludes that there are three grounds with sufficient evidence to uphold the complaint.</p> <p>The Committee is asked to consider this report of the Monitoring Officer and the investigator's report.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>(a) the findings of the independent investigator that the subject councillor breached the Council's Code of Conduct on following grounds:</p> <p>i) (3.1) <u>I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the authority.</u></p> <p>ii) (5.1) <u>I do not bring my role or authority into disrepute.</u></p> <p>iii) (6.1) <u>I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.</u></p> <p>be accepted;</p> <p>(b) 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; and</p> <p>(c) that the above training be specifically provided for the subject councillor and those Councillors and officers referred to in paragraph 8 of the investigator's report</p> <p>(d) That the subject councillor be requested to furnish the Standards Committee with a letter of apology for these breaches of the Code;</p>

	<p>(e) that should the subject councillor fail to provide a suitable letter of apology referred to in (b) above within 14 days of the date of receiving written notification, then a report of non-compliance be presented to Council.</p> <p>(f) That Standards Committee makes any further findings and or recommendations that it sees fit.</p>
Reason for recommendations	The investigation was conducted by an experienced independent investigator who undertook interviews with the complainant, the subject councillor, further councillors and officers before reaching a conclusion. The conclusions are based upon the current legal framework which sets out the parameters within which councillors are subject to a Code of Conduct.
Portfolio Holder(s):	Not applicable
Corporate Director	Graham Farrant (Chief Executive)
Report Authors	Susan Zeiss (Director for Law and Governance and Monitoring Officer)
Wards	Not applicable
Classification	For Decision

Background

1. The Council is required by the Localism Act 2011 to have in place a Code of Conduct for Councillors as well as a process for dealing with complaints under the Code. BCP Council has adopted the Local Government Association's model code of conduct, which has at its heart the Seven Principles of Public Life (also known as the "Nolan Principles")
2. The Code demonstrates that the Council is committed to upholding the highest standards of conduct by its elected councillors. It also protects the public, fellow councillors and local authority officers and the reputation of local government.
3. On 26 January 2023 the Council 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 Councillor Mark Anderson had breached the following provisions in the BCP Council Code of Conduct:
 - 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. The complainant further alleged that the subject councillor has failed to observe the Seven Principles of Public Life, which underpins the Code namely: -

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.*

5. Due to the serious nature of the concerns raised in the complaint, the Chief Executive and Monitoring Officer relayed the circumstances of the complaint to Dorset Police on 27 January 2023. A Detective Inspector and lawyer from the Crown Prosecution Service Complex Case Unit were allocated to consider what offences, if any, should be considered. The outcome of this consideration by Dorset Police was that there was insufficient evidence to justify further investigation. Had the initiative already been implemented and Council funds committed, however, there may have been further consideration of the matter.

6. The Chief Executive and Monitoring Officer, then also interviewed the subject councillor, primarily to inform him that a complaint had been made which raised issues of concern which warranted an independent investigation and could result in

a referral to the Council's Standards Committee. The subject councillor was accompanied at that meeting by the Conservative Group Manager.

7. The Monitoring Officer also consulted with two of the Independent Persons for BCP Council.
8. The Monitoring Officer, after discussions with the Chief Executive, exercised her discretion to instruct an independent investigation into the complaint. She did not consult with the Chair or Vice Chair of Standards Committee at this stage, as is the usual process outlined in the BCP Council Constitution, as those two persons had been in receipt of the email sent by the subject councillor dated 18 January 2023 and which is the subject of this complaint.
9. The Monitoring Officer appointed Ms Janet Kealey to undertake the independent investigation.

Outcome of the Investigation Report

10. The methodology and evidence considered are set out within the investigator's report, attached at Appendix 1 (the report).
11. The report finds that there was evidence that the Code had been breached in three areas, namely:-
 - i) (3.1) I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the authority.
 - ii) (5.1) I do not bring my role or authority into disrepute.
 - iii) (6.1) I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.
12. A copy of the investigator's draft report was shared with both the complainant and the subject councillor and their responses are included in full at paragraph 9 of the report.

Conclusion

13. In considering the report, the Committee's attention is drawn to the following paragraphs in particular:
 - (i) Para 3.3 in which the report refers to the responses to the subject councillors dated the 15 January and 18 January 2023
 - (ii) Para 3.4 which draws attention to the timing of the proposed works
 - (iii) Para 7 which confirms that the Code has the Seven Principles of Public Life as its foundation.
 - (iv) Para 9 containing the responses of both the complainant and subject councillor.
14. The Standards Committee is asked to consider the report of Ms Kealey at its meeting and the recommendation is to accept the findings of the investigator and/or to make such other findings or determination as it sees fit.

Summary of financial implications

1. There are no financial implications arising from the recommendation that the Committee formally accept the conclusions of the investigator in relation to this complaint.

Summary of legal implications

2. The detailed legal basis for the investigation and reasons for the findings of the investigator are set out in the report.
3. The Committee is recommended to accept the findings of the investigator.

Summary of human resources implications

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

Summary of sustainability impact

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

Summary of public health implications

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

Summary of equality implications

7. 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

8. 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: Exempt Report of the Independent Investigator