

Report subject	<b>Non-compliance with Standards Complaints Process - Determination</b>
Meeting date	21 March 2023
Status	Public Report
Executive summary	This report is for information and provides the Council with details of those complaints where members have failed to comply with a determination requesting that an apology be made following the informal resolution stage of the complaints process.
<b>Recommendations</b>	<b>This report is for information only</b>
Reason for recommendations	This report has been prepared following a decision made by Standards Committee on the 13 <sup>th</sup> March 2023 to report member non-compliance in relation to the four Code of Conduct complaints detailed in the body of this report.
Portfolio Holder(s):	Not applicable
Corporate Director	Graham Farrant
Report Authors	Ingrid Brown (Head of Legal Services)
Wards	Not applicable
Classification	For information

## Background

1. The Council has a statutory duty in the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the authority as well as those of parish and town councils within the boundary of BCP Council.
2. The Monitoring Officer is responsible for dealing with allegations that councillors have failed to comply with the members' code of conduct in accordance with the arrangements adopted by the Council. These arrangements are published in the Constitution, Part 6 (Codes and Protocols).

3. In summary, these arrangements establish a tiered approach for the consideration of complaints as follows:-
  - a. the Monitoring Officer to undertake an initial assessment, and where appropriate resolve the complaint by way of rejection, dismissal, or seek to secure informal resolution.
  - b. referral of the complaint to the Chair of the Standards Committee to consider in consultation with the standards committee members, independent persons and the Monitoring Officer. The Chair may dismiss the complaint, conclude that a potential breach of the Code has occurred and seek an informal resolution or refer the complaint for independent investigation.

### **Code of Conduct Complaint 105**

4. Code of Conduct Complaint 105 is a complaint made by a member of the public against Councillor Mellor. Councillor Mellor was at the time the Leader of the Council. The complainant complained that Councillor Mellor breached two of the Nolan Principles, honesty and accountability, by making misleading statements to Council members and residents about the beach hut scheme and by failing to attend a special meeting of Overview and Scrutiny. The complainant complained that in so doing Councillor Mellor breached the Code of Conduct by *'bringing the office of Councillor or the Council into disrepute while acting in an official capacity.'*
5. This complaint was initially assessed by the Monitoring Officer and sent to Councillor Mellor for a response on the 15 September 2022. No response was received and a further email was sent requesting a response on the 6 December 2022. On the 20 December 2022 Councillor Mellor provided his response to the complaint in two emails.
6. This complaint was considered by the Chair of Standards in consultation at an informal meeting on the 17 January 2023. The Chair in consultation determined that the complaint be upheld and that a formal apology should be made to Overview and Scrutiny and also to Full Council at the next meetings of both. On the 27<sup>th</sup> January 2023 a letter was sent to the complainant and to Councillor Mellor advising them of the outcome of this complaint.
7. On the 8 February Councillor Mellor wrote to the Monitoring Officer indicating that he had some issues with the determination made. He subsequently had a telephone conversation with the Monitoring Officer and indicated that he did not agree with the determination. The Monitoring Officer responded and invited Councillor Mellor to provide any additional evidence which, following the laws of natural justice, might trigger a review of the determination. No such evidence was received and Councillor Mellor has not apologised or indicated that he intends to do so.
8. In view of the above and consistent with the decision made at Standards Committee on the 13<sup>th</sup> March 2023, this report advises Council that a member of BCP Council in this case Councillor Mellor, has failed to comply with the standards regime by failing to apologise as determined he should by the Chair of Standards in consultation and in accordance with the process set in the Constitution.

### **Code of Conduct Complaint 108**

9. Code of Conduct Complaint 108 is a complaint made by a member of the public against Councillor Dunlop. The complainant complained that Councillor Dunlop used her official councillor account on Twitter to send abusive tweets. The complainant noted that initially her tweets tended to be directed at other Councillors but complained that she had sent similar tweets to members of the public. The complainant complained that by sending such tweets Councillor Dunlop had breached the Code of Conduct by *failing to treat others with respect and bringing the office of Councillor or the Council into disrepute while acting in an official capacity.*
10. This complaint was initially assessed by the Monitoring Officer and sent to Councillor Dunlop for a response on the 15 September 2022. A response was received from Councillor Dunlop on the 3 October 2023.
11. The complaint was considered by the Chair of Standards in consultation at an informal meeting on the 4 January 2023 and the complaint was upheld. It was determined that the Councillor Dunlop should make a formal apology for her actions at the next Standards Committee meeting.
12. Both Councillor Dunlop and the complainant were advised of the outcome of this complaint on the 15 February 2023. In response to the letter advising her of the outcome, Councillor Dunlop responded indicating that she would not be available for the next meeting of the Standards Committee though she did not indicate whether or not she would apologise.
13. In email correspondence dated the 20 February and 1 March 2023 Councillor Dunlop was asked to confirm whether or not she would be making the requested apology. She responded to email correspondence indicating her view that the determination is flawed but that for a number of reasons she had not yet had the opportunity to set out her reasons. She indicated that she would do so in advance of formal Standards Committee on the 13<sup>th</sup> March 2023 however no further correspondence from Councillor Dunlop has been received.
14. Consistent with the decision made at Standards Committee on the 13<sup>th</sup> March 2023, this report advises Council that a member of BCP Council, in this case Councillor Dunlop, has failed to comply with the standards regime by failing to apologise as determined she should by the Chair of Standards in consultation and in accordance with the process set out in the Constitution.

### **Code of Conduct Complaint 110**

15. Code of Conduct complaint 110 is a complaint made by a member of the public against Councillor Mellor. The complainant complained that Councillor Mellor withheld reports on the beach huts scheme from a budget meeting and lied about his role in suppressing those reports. The complainant also complained that Councillor Mellor did not turn up to a related Overview and Scrutiny meeting. The complainant complained that Councillor Mellor breached the Code of Conduct by *bringing the office of Councillor or the Council into disrepute while acting in an official capacity.*
16. This complaint was initially assessed by the Monitoring Officer and sent to Councillor Mellor for a response on the 15 November 2022. No response was

received and a further email was sent requesting a response on the 22 December 2022. On the 9 January 2023 Councillor Mellor provided his response in an email.

17. This complaint was considered by the Chair of Standards in consultation at an informal meeting on the 17 January 2023. The Chair in consultation determined that the complaint be upheld and that by way of informal resolution Councillor Mellor should make an apology to Full Council at the next meeting. On the 27<sup>th</sup> January 2023 a letter was sent to Councillor Mellor and the complainant advising them of the outcome of this complaint.
18. On the 8 February Councillor Mellor wrote to the Monitoring Officer indicating that he had some issues with the determination made in respect of this complaint. He subsequently had a telephone conversation with the Monitoring Officer and indicated that he did not agree with the determination. The Monitoring Officer responded and invited him to provide any additional evidence which, following the laws of natural justice, might trigger a review of the determination. No such evidence has been received and Councillor Mellor has not apologised or indicated that he intends to do so.
19. In view of the above and consistent with the decision made at Standards Committee on the 13<sup>th</sup> March 2023, this report advises Council that a member of BCP Council, in this case Councillor Mellor, has failed to comply with the standards regime by failing to apologise as determined he should by the Chair of Standards in consultation and in accordance with the process set out in the Constitution.

#### **Code of Conduct complaint 126**

20. Code of Conduct complaint 126 is a complaint made by a member of the public against Councillor Dove. The complainant complained about comments made by Councillor Dove at Full Council on the 8<sup>th</sup> November 2022 when she said to the Chair of Council 'we've got members of the public leaning over the balcony .. as a female, I'd hate to have someone looking down my chest'. The complainant complained that Councillor Dove's comments were insulting to members of the public who were sitting in the gallery by insinuating that they were acting in this manner. In so doing the complainant complained that Councillor Dove breached the Code of Conduct by *failing to treat others with respect, by bullying and by bringing the office of Councillor or the Council into disrepute while acting in an official capacity*.
20. This complaint was initially assessed by the Monitoring Officer and sent to Councillor Dove for a response on the 6 January 2023. Councillor Dove provided a full response on the 13 January 2023. In her response she raised a number of equalities issues.
21. This complaint was considered by the Chair in consultation at an informal meeting on the 31 January 2023. Part of the complaint was upheld and it was determined that the she should make an apology to the next meeting of full Council.
22. In view of the fact Councillor Dove's response raised significant equalities issues before finalising this determination a meeting was arranged and took place on the 7 February 2023 between the Council's Equality, Diversity and Inclusion Officer (EDI Officer) the Chair of Standards and the Deputy Monitoring Officer. At this meeting the detail of the complaint was shared verbally with the EDI Officer. The Councillor's response was also shared in full. There was a full discussion about the

equalities issues raised and they were given full consideration during this meeting. The EDI officer advised that from an equalities perspective there were no grounds to alter the determination made but that Councillor Dove should be invited to provide further detail of the equalities issues she raised so that these can be referred to the Chief Executive and addressed. It was also agreed that Councillor Dove should be invited to make representations if she felt that to make the required apology would place her in a vulnerable position.

23. On the 8 February 2023 following consultation with the EDI officer a letter was sent to Councillor Dove and the complainant advising them of the outcome of this complaint.
24. Since receiving the letter referred to above, Councillor Dove has entered into email correspondence with the Deputy Monitoring Officer and the Monitoring Officer stating her view that the EDI Officer should have access to all written information pertaining to this complaint before a determination is made, making reference to the Council's equality policy.
25. The Deputy Monitoring Officer responded to Councillor Dove's initial email. The following is an extract from her response which references the relevant section of the Council's equality policy:

*There is no provision in the Council's equality policy that information should be shared in writing. The policy refers to advice being provided to the Chair of standards where there are allegations of discrimination or matters of equalities. (see paragraph 9.3). This advice was sought and obtained. Equalities legislation provides that due regard must be given to any equalities issues at the time of 13 decision and I can confirm that during the consultation with the council's EDI officer the necessary regard was given to the equalities issues you raised. Accordingly, you were invited to provide further details of the concerns you raised so that these can be addressed. You were also invited to indicate if you felt an apology to Full Council would place you in a vulnerable position.*
26. Councillor Dove did not agree with this position and wrote to the Monitoring Officer expressing her views. She was offered a time to meet with both the Monitoring Officer and the Deputy Monitoring Officer and a Teams invite was sent to her for a meeting on the 27 February 2023 which she did not attend.
27. An email was sent to Councillor Dove on the 1 March 2023 asking that she confirm whether or not she intends to provide the apology as determined appropriate at informal resolution. No response to this email has been received.
28. In view of the above and consistent with the decision made at Standards Committee on the 13<sup>th</sup> March 2023, this report advises Council that a member of BCP Council, in this case Councillor Dove, has failed to comply with the standards regime by failing to apologise as determined she should by the Chair of Standards in consultation and in accordance with the process set out in the Constitution.

### **Summary of financial implications**

29. There are no financial implications arising from this report.

### **Summary of legal implications**

30. The Council has a legal duty to respond to complaints made against councillors of allegations of a breach of the Code of Conduct. The Council has adopted procedures for handling complaints and these are set out in part 6 of the Constitution. Paragraph 8.2 of Part 6 requires a Councillor to cooperate with any Code of Conduct investigation and/or determination.

### **Summary of human resources implications**

31. There are no direct manpower implications arising from this report, however, it is worth noting that the handling and processing of complaints is resource intensive.

### **Summary of sustainability impact**

32. There are no sustainability implications arising from this report.

### **Summary of public health implications**

33. There are no public health implications arising from this report.

### **Summary of equality implications**

34. This report is for information only reporting on the outcome of councillor non-compliance following a determination of a potential breach of the Code of conduct. As a consequence, there are no direct equalities implications arising from this report. The Code of Conduct includes a duty upon all councillors to promote equalities and not to discriminate unlawfully against any person. Equality implications are considered as an integral part of the complaints process.
35. As indicated in this report, Councillor Dove's response to Complaint 126 raised a number of equality considerations. These were given the necessary regard and were properly considered in a full consultation with the Council's EDI officer.

### **Summary of risk assessment**

36. There are no direct risks associated with this report.

### **Background papers**

37. There are no background papers.

### **Appendices**

38. There are no appendices to this report.