

# STANDARDS COMMITTEE



Report subject	<b>Consideration of a Report in Respect of Code of Conduct complaint BCP-160, BCP-169 and BCP-171</b>
Meeting date	8 October 2024
Status	Public with Exempt Appendix
Executive summary	<p>This report provides the Standards Committee with the conclusions of the investigations following a complaint made about a Councillor of BCP Council under reference BCP-160, BCP-169 and BCP-171. The investigator's reports are attached at Exempt Appendix 1, 2 and 3. The investigator concludes that in respect of all three complaints there are insufficient grounds to uphold the complaints.</p> <p>The Committee is asked to consider this report of the Monitoring Officer and the investigator's report.</p>
Recommendations	<p><b>It is RECOMMENDED that:</b></p> <ul style="list-style-type: none"> <li><b>(a) BCP-160 the findings of the independent investigator that the subject councillor did not breach the Council's Code of Conduct is accepted and no further action be taken;</b></li> <li><b>(b) BCP-169 the findings of the independent investigator that the subject councillor did not breach the Council's Code of Conduct is accepted and no further action be taken;</b></li> <li><b>(c) BCP-171 the findings of the independent investigator that the subject councillor did not breach the Council's Code of Conduct is accepted and no further action be taken.</b></li> </ul>
Reason for recommendations	<p>The investigations were conducted by an experienced independent investigator who undertook interviews with the complainants and the subject councillor 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.</p>
Portfolio Holder(s):	Not applicable
Corporate Director	Graham Farrant (Chief Executive)
Report Authors	Janie Berry, Director for Law and Governance and Monitoring Officer

	Richard Jones, Head of Democratic Services and Deputy 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.

## BCP-160

3. On 14 December 2023, the Council received a complaint from the complainant alleging that the Subject BCP Councillor failed to comply with the Code in posting comments about a local Member of Parliament on a social media site, Next Door. In the post the subject councillor described the local Conservative MP (at the time) as "basically useless.". The complainant considered that the subject councillor 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.*
  - 5.1 *I do not bring my role or authority into disrepute.*
4. Following consideration of the complaint by the Chair of Standards Committee in consultation with the Independent Persons and Members of the Standards Committee, the Monitoring Officer appointed Simon Goacher, Head of Local Government at Weightmans 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 no evidence that the Code had been breached.
12. A copy of the investigator's draft report was shared with both the complainant and the subject BCP Councillor and their responses are included in full at paragraphs 54-56 of the report.

## BCP-169

13. On 21 February 2024, the Council received a complaint from the complainant alleging that the Subject BCP Councillor failed to comply with the Code by posting comments on X (formerly known as Twitter) across a broad range of topics. The

complainant considered that the subject councillor had breached the following provisions in the BCP Code of Conduct:

- 13.1 *I treat other councillors and members of the public with respect.*
- 2.3 *I promote equalities and do not discriminate unlawfully against any person*

- 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.*

14. Following consideration of the complaint by the Chair of Standards Committee in consultation with the Independent Persons and Members of the Standards Committee, the Monitoring Officer appointed Simon Goacher, Head of Local Government at Weightmans to undertake the independent investigation.

#### Outcome of the Investigation Report

15. The methodology and evidence considered are set out within the investigator's report, attached at Appendix 2 (the report).
16. The report finds that there was no evidence that the Code had been breached.
17. A copy of the investigator's draft report was shared with both the complainant and the subject BCP Councillor and their responses are included in full at paragraphs 52-59 of the report.

#### **BCP-171**

18. On 22 February 2024, the Council received a complaint from the complainant alleging that the Subject BCP Councillor failed to comply with the Code by posting videos on a social media site, Next Door and on You Tube. The videos showed motorists that the subject Councillor had recorded doing manoeuvres he considered to be unlawful and that he had reported to the police. The complainant alleged that in posting the videos the subject Councillor had breached data protection laws in that he failed to pixelate the images of number plates and people's faces. The complainant considered that the subject councillor had breached the following provisions in the BCP Code of Conduct:

- 2.2 *I do not harass any person*
- 2.3 *I promote equalities and do not discriminate unlawfully against any person*
- 4.1 iv 3 *I have consulted with the Monitoring Officer prior to its release*
- 4.2 *I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests*
- 6.1 *I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else*

19. Following consideration of the complaint by the Chair of Standards Committee in consultation with the Independent Persons and Members of the Standards Committee, the Monitoring Officer appointed Simon Goacher, Head of Local Government at Weightmans to undertake the independent investigation.

### Outcome of the Investigation Report

20. The methodology and evidence considered are set out within the investigator's report, attached at Appendix 3 (the report).
21. The report finds that there was no evidence that the Code had been breached.
22. A copy of the investigator's draft report was shared with both the complainant and the subject BCP Councillor and neither chose to respond to the report.

### **Conclusion**

23. The Standards Committee is asked to consider the three reports prepared by Mr Goacher 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**

24. 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**

25. The detailed legal basis for the investigation and reasons for the findings of the investigator are set out in the reports.
26. The Committee is recommended to accept the findings of the independent investigator.

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

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

### **Summary of sustainability impact**

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

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

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

### **Summary of equality implications**

30. 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**

31. The Council has to act in accordance with the legal framework that exists, and the powers the Council has through its Standards Committee relating 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 recommendations 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**

BCP Council Constitution

BCP Councillor Code of Conduct and Procedures for managing a Code of Conduct Complaint

**Appendices**

Appendix 1: BCP-160 - Exempt Report of the Independent Investigator

Appendix 2: BCP-169 – Exempt Report of the Independent Investigator

Appendix 3: BCP-171 - Exempt Report of the Independent Investigator