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**Standards Committee Agenda**

**Thursday, 29 June 2017 at 10.00 am**

Birch Suite, Muriel Matters House, Breeds Place, Hastings, TN34 3UY.

Please enter the building via the Tourist Information Centre entrance.

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# Agenda Item 3

## STANDARDS COMMITTEE

8 DECEMBER 2016

Present: Councillors Roberts (Chair), Fitzgerald (Vice-Chair), Bacon, Sinden and Clarke

Apologies for absence were notes for Councillor

### 6. APOLOGIES FOR ABSENCE

None.

### 7. DECLARATIONS OF INTEREST

The following councillors declared an interest in the minutes as follows:

<u>Councillor</u>	<u>Minute</u>	<u>Interest</u>
Bacon	5 – Complaint Reference SC.06/01/2016	Personal – Has communicated via email with members of SEG

### 8. MINUTES OF THE ASSESSMENT COMMITTEE MEETING HELD ON 09 NOVEMBER 2016

**RESOLVED** – that the minutes of the Assessment Sub-Committee meeting held on 9 November 2016 are to follow.

### 9. COMPLAINT - SB/06/01/2016

The Monitoring Officer submitted a report to decide what action to take in respect of a complaint alleging several breaches of the Code of Conduct by Councillor Liam Atkins.

On the 6<sup>th</sup> January 2016 the Monitoring Officer received a complaint from Councillor Kim Forward concerning Councillor Atkins speech at the Save Ecclesbourne Glen (SEG) Annual General Meeting (AGM).

Councillor Forward's complaint stated that Councillor Atkins "spoke about Hastings Borough Council's Planning Department and its officers in negative and derogatory terms and where he appeared to divulge details of a confidential briefing he had received from officers".

Councillor Atkins was invited to the Save Ecclesbourne Glen's (SEG's) public meeting and Annual General Meeting (AGM). Councillor Atkins had emailed the Director of

## STANDARDS COMMITTEE

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Operations on 30<sup>th</sup> October 2015 stating that “I’d rather not do this, but could I arrange a briefing on these issues nonetheless”. Councillor Atkins met with three council officers, namely the Assistant Director of Environment and Place, Assistant Director of Housing and Built Environment and the Chief Legal Officer on 11<sup>th</sup> November 2015.

Councillor Atkins attended SEG’s AGM which was held at the White Rock Hotel on Sunday 15<sup>th</sup> November 2015 with Councillor Cooke. He addressed the meeting which was recorded in its entirety by SEG. On 17<sup>th</sup> November a copy of the recording was posted on SEG’s Facebook page. The recording was also posted on YouTube on 19<sup>th</sup> November 2015.

At the initial assessment meeting held on 22<sup>nd</sup> February 2016, the committee agreed that the complaint met the initial tests set out in the Monitoring Officer’s report. The committee felt the evidence was sufficient to warrant an investigation and resolved that the Monitoring Officer appoint an external investigator.

Alex Oram of Ch&I Associates was appointed to conduct the investigation. The decision was taken to conduct the investigation after the local election on 5<sup>th</sup> May 2016 due to the nature of the complaint, so as not to take place during Purdah. The report of the external investigator confirmed that a breach of the Code had taken place and for the Monitoring officer to arrange a hearing to allow the Assessment Sub-Committee to decide what action to take and to allow both the complainant, Councillor Forward, and the defendant, Councillor Atkins, to make their own submissions.

The Assessment Sub-Committee met on 9<sup>th</sup> November 2016. Councillor Atkins addressed the Committee and made his submission. The Committee indicated that they felt there was a breach of the Code of Conduct and decided to refer the matter to the Standards Committee for a public hearing to decide what action to take and to consider appropriate sanctions suggested by Alex Oram.

Alex Oram’s report dated 1<sup>st</sup> September 2016 was appended to the Standards Committee agenda at Appendix B. The report was restricted as it contained exempt information by virtue of Paragraph 1.2 of Schedule 12A to the Local Government Act 1972 because the interviews with Council Officers were undertaken on a confidential basis.

The Deputy Monitoring Officer outlined the procedure for the meeting. She said it had taken some time to deal with the complaint as the matter was passed on to an external investigator and needed to take place after the election so as not to take place during Purdah. Moreover, it had proven difficult to arrange a committee meeting date to suit everyone’s availability.

The video footage of Councillor Atkins at SEG’s AGM was observed by the Assessment Sub-Committee at its meeting held on 9<sup>th</sup> November 2016. A transcript of Councillor Atkins speech also was appended under Appendix B of the agenda.

Alex Oram outlined the steps he had taken during his investigation. He thanked Councillor Atkins for his co-operation during the investigation and referred to his findings set out in his report. In his summary, he said Councillor Atkins was at the SEG meeting in his official capacity and although his speech did receive the higher

## STANDARDS COMMITTEE

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level of protection afforded for political debate, the way he presented his briefing with the officers and his unfair criticism of officers did not.

Members thanked Alex Oram for his comprehensive report.

Jan Gray and Susan Fellows, Independent Persons, both agreed that a breach of the Code of Conduct had taken place.

The Committee retired to consider findings of fact and which sections of the Code of Conduct had been breached (if any). They returned and announced their findings of fact, as follows: -

### **Decision:-**

**Having read the report and heard from all parties including Councillor Atkins, Alex Oram and the views of the Independent Persons, the facts are not disputed.**

Resolved unanimously that there was a breach of the Code and specifically the following parts of the Code:-

Paragraph 3(1) of the Code of Conduct – You must treat others with respect. We find that Councillor Atkins failed to show Council officers respect when making his speech at the SEG meeting on 15<sup>th</sup> November 2015.

Paragraph 5 of the Code of Conduct – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute. We find that Councillor Atkins in questioning the honesty and integrity of officers risked adversely impacting his relationship with individual officers and upon the public's confidence in the Council fulfilling its duties as a whole.

### **Reasons for the decision:-**

1. Members considered submissions by the Complainant, Councillor Atkins, the Independent Persons and the external investigators report;
2. At the time of the event complained of on 15<sup>th</sup> November 2015, Councillor Atkins was an elected member of Hastings Borough Council;
3. At the time of the event complained of, Councillor Atkins was required to observe the Code of Conduct of Hastings Borough Council;
4. At the time of the event, Councillor Atkins was acting as a representative of the Council and therefore in his official capacity;
5. At the time of the event, Councillor Atkins was a leading member of the Conservative Group.

The external investigator advised that the sanctions need to be proportionate and relevant to the breach of the Code of Conduct.

## STANDARDS COMMITTEE

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Jan Gray and Susan Fellows, Independent Persons, recommended that an apology should be made to the persons named in the report and that Councillor Atkins should complete 1-2-1 training with the Monitoring Officer.

Councillor Atkins thanked Alex Oram and the Legal Team. He agreed that he had breached the Code of Conduct and had personally attacked the officers at the SEG AGM meeting. He said he regretted doing so and the year long process to determine the complaint. Furthermore, if Councillor Forward had come to him, he would have apologised and taken training at the same time. He said he had previously offered to give a full apology to the officers and undergo training.

The Committee retired to consider what sanctions, if any, to apply. They returned and announced the sanctions as follows: -

### **RESOLVED (unanimously) that: -**

The Committee has considered the issue of sanctions and having heard from Councillor Atkins, Alex Oram and the views of the Independent Persons we have concluded that Councillor Atkins conduct did merit the imposition of a sanction. We have considered appropriate and proportionate sanctions for the breaches of the Code and consider the imposition of the following:-

Individual training on the Code of Conduct to be undertaken with the Monitoring Officer.

Requesting that Councillor Atkins offer his apology personally to the relevant officers. Councillor Atkins has agreed to do both.

### **Reasons for the sanction imposed:-**

The Committee agreed that training and an apology was an appropriate and proportionate sanction for the relevant breach of the Code.

### **10. ADDITIONAL URGENT ITEMS (IF ANY)**

None.

(The Chair declared the meeting closed at. 11.20 am)

# Agenda Item 4

**Report to:** Standards Committee

**Date of Meeting:** 29<sup>th</sup> June 2017 at 10am

**Report Title:** Complaint – SB/06/02/2016

**Report By:** Christine Barkshire-Jones  
Chief Legal Officer and Monitoring Officer

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## **Purpose of Report**

The Standards Committee has to decide what action to take in respect of a complaint alleging several breaches of the Code of Conduct.

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## **Recommendation(s)**

1. Members are requested to decide appropriate action in relation to the complaint.

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## **Reasons for Recommendations**

The Monitoring Officer has a statutory duty to deal with the Standards process.

## Background Information:

1. Appendix A – Complaint
2. Appendix B - Report of Victoria Simpson, Senior Lawyer, Orbis Public Law

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### Wards Affected

None

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### Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	Yes
Anti-Poverty	No

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### Additional Information

Appendix A - Complaint

Appendix B - Report of Victoria Simpson, Senior Lawyer, Orbis Public Law . Not for publication. This report is restricted and contains exempt information by virtue of Paragraph 1.2 of Schedule 12A to the Local Government Act 1972.

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### Officer to Contact

Christine Barkshire-Jones

[cbarkshire-jones@hastings.gov.uk](mailto:cbarkshire-jones@hastings.gov.uk)

01424 451731

**Private and Confidential**

**Complaint Reference: SB/06/02/2016**

**Member subject of the complaint: Councillor Kim Forward**

**Complainant: Councillor Rob Cooke**

**Relevant paragraphs of the Code of Conduct:**

**10.** —(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where either-

(b) the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

**12.** —(1) Subject to sub-paragraph (2) and (3), where you have a prejudicial interest in any matter in relation to the business of your authority—

(a) you must not participate, or participate further, in any discussion of the matter at any meeting, or participate in any vote, or further vote, taken on the matter at the meeting and must withdraw from the room or chamber where the meeting considering the matter is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the matter is being considered at that meeting;

unless you have obtained a dispensation from your authority's monitoring officer or standards committee;

(b) you must not exercise executive functions in relation to that matter; and

(c) you must not seek improperly to influence a decision about that matter.

**13.** —(1) Subject to paragraph 14, you must, within 28 days of—

(a) this Code being adopted by the authority; or

(b) your election or appointment to office (where that is later), register in the register of members' interests details of-

(i) your personal interests where they fall within a category mentioned in paragraph 8(3)(a) and

(ii) your personal interests which are also disclosable pecuniary interests where they fall within a category mentioned in paragraph 8(5) by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest falling within sub-paragraphs (1)(i) or (1)(ii) or any change to any personal interest registered under sub-paragraphs (1)(i) or (1)(ii), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

## **Summary of Allegation**

On the 14<sup>th</sup> November 2016 the Monitoring Officer received a complaint concerning Councillor Forward's failure to declare a prejudicial interest at the Full Council meeting on 26<sup>th</sup> October 2016 regarding her involvement in the Council's Social Lettings Agency Scheme and during consideration of the report of the Housing Strategy which was approved by Full Council on 20<sup>th</sup> July 2016.

The relevant parts of the Code alleged to have been breached are detailed above.

## **Complaint**

Criteria for decisions by the Standards Committee.

## **Initial Tests**

1. Before assessment of a complaint begins, the Standards Committee should be satisfied that the complaint meets the following tests:-
  - (a) it is a complaint against one or more named members of the Council;
  - (b) the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time; and
  - (c) the complaint, if proved, would be a breach of the Code under which the member was operating at the time of the alleged misconduct.
2. If the complaint fails one or more of the tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.
3. If the complaint passes these tests, the Standards Committee will go on to consider whether to take no action, whether to refer the complaint for investigation or whether to refer it to the Monitoring Officer for other action, such as a full hearing.

## **Application of Initial Tests**

4. In order to proceed, the Standards Committee has to consider the following:
  - (a) Councillor Forward is an elected member of Hastings Borough Council.
  - (b) Councillor Forward was at the Full Council meeting on 26<sup>th</sup> October as a Councillor and therefore was in office as the time of the alleged conduct and the Code of Conduct was in force at that time.

- (c) Whether the conduct complained of would constitute a breach of the Code of Conduct.
5. The first question is easily answered as is the second as Councillor Forward was at a Council meeting. The third question is for members to decide.
  6. The Assessment Sub-Committee met on 8<sup>th</sup> December 2016 and considered if the complaint met the initial tests as set out in paragraph 1(a), (b) and (c) of the Chief Legal Officer and Monitoring Officer's report. It was agreed that the complaint did meet part (a), (b) and (c) of the tests.
  7. The Assessment Sub-Committee decided that the initial assessment had shown that there was a case to answer. The Assessment Sub-Committee felt that the evidence was sufficient to warrant an investigation and resolved that the Monitoring Officer appoint an external investigator. If the report of the external investigator suggested a breach of any part of the Code, the Monitoring Officer should arrange a hearing of the Standards Committee to decide what action to take and allow both the complainant and Councillor Forward to make their own submissions.
  8. Victoria Simpson of Orbis Public Law was appointed by the Monitoring Officer to conduct an investigation into the complaint against Councillor Forward. Victoria Simpson's report is attached in full at Appendix B and is dated 26<sup>th</sup> April 2017. The decision was taken to have the hearing after the local election on 4<sup>th</sup> May 2017 and the General Election on 8<sup>th</sup> June 2017 due to the nature of the complaint so as not to take place during Purdah. Victoria Simpson will be in attendance at the hearing on 29<sup>th</sup> June 2017 to present her report.

### **Decisions of the Standards Committee**

9. The Standards Committee is required to reach one of the following decisions;
  - (a) to decide what action to take; or
  - (b) any other action as appropriate.
10. Members are asked to consider appropriate sanctions.
11. The external investigator Victoria Simpson has listed the sanctions available to the Standards Committee in her report as follows:-
  - (a) Publish its findings in respect of the member's conduct;
  - (b) Write a formal letter to the councillor found to have breached the code;

- (c) Report its findings to Council for information;
- (d) Seek formal censure by motion;
- (e) Recommend to the Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (f) Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities,
- (g) Instruct the Monitoring Officer to arrange training, mediation or other appropriate remedy, for the Member.

12. Victoria Simpson has also added in her report that if the Standards Committee takes the view that there has been a technical breach of the Code of Conduct then it will wish to take into account the subject member's previous record as well as the fact that the situation has been remedied. Having done so, it may consider on all of the facts that the objectives of maintaining public confidence and preventing further breaches of the Code may be satisfied by publishing the Standard Committee's findings on the Council's website.

### **The Decision and the Reasons for the Decision**

13. The Standards Committee will give a written summary of their decision which should include:-
- (a) the main points considered;
  - (b) the conclusions on the complaint;
  - (c) the reasons for the conclusions.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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of the Local Government Act 1972.

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# Agenda Item 5

**Report to:** Standards Committee

**Date of Meeting:** 29<sup>th</sup> June 2017 at 10am

**Report Title:** Complaint – SB/06/03/2016

**Report By:** Christine Barkshire-Jones  
Chief Legal Officer and Monitoring Officer

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## **Purpose of Report**

The Standards Committee has to decide what action to take in respect of a complaint alleging several breaches of the Code of Conduct.

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## **Recommendation(s)**

1. Members are requested to decide appropriate action in relation to the complaint.

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## **Reasons for Recommendations**

The Monitoring Officer has a statutory duty to deal with the Standards process.

## Background Information:

1. Appendix A – Complaint
2. Appendix B - Report of Victoria Simpson, Senior Lawyer, Orbis Public Law

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### Wards Affected

None

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### Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	Yes
Anti-Poverty	No

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### Additional Information

Appendix A - Complaint

Appendix B - Report of Victoria Simpson, Senior Lawyer, Orbis Public Law. Not for publication. This report is restricted and contains exempt information by virtue of Paragraph 1.2 of Schedule 12A to the Local Government Act 1972.

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### Officer to Contact

Christine Barkshire-Jones

[cbarkshire-jones@hastings.gov.uk](mailto:cbarkshire-jones@hastings.gov.uk)

01424 451731

**Private and Confidential**

**Complaint Reference: SB/06/03/2016**

**Member subject of the complaint: Councillor Rob Lee**

**Complainant: Councillor Peter Chowney**

**Relevant paragraphs of the Code of Conduct:**

**Principles of Public Life**

*Selflessness*

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

*Integrity*

2. Members should not place themselves in situations where integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. Members should show integrity by consistently treating other people with respect, regardless of their race, age, religion, gender, sexual orientation, disability or position, for example as an officer or employee of the authority.

*Honesty*

6. Members should not place themselves in situations where their honesty may be questioned, should not behave dishonestly and should on all occasions avoid the appearance of such behaviour. Members should declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

**General obligations**

3. (2) You must not –  
(b) bully any person;

**Summary of Allegation**

On the 16<sup>th</sup> November 2016 the Monitoring Officer received a complaint concerning Councillor Rob Lee's behaviour and comments towards Councillor Kim Forward at the Full Council meeting on 26<sup>th</sup> October 2016.

The relevant parts of the Code alleged to have been breached are detailed above. The complaint alleges that in verbally attacking Councillor Forward, Councillor Lee breached the first principle of the Code in that he attempted to improperly confer disadvantage on Councillor Forward.

The complaint alleges that Councillor Lee was in breach of the second principle of the Code, in that his integrity could be questioned as a result of his untrue allegations about Councillor Forward, that he behaved improperly and that he failed to avoid the appearance of such behaviour.

The complaint alleges that in making false allegations about Councillor Forward, Councillor Lee breached the sixth principle of the Code, in that he placed himself in a situation where his honesty may be questioned, he behaved dishonestly, and he failed to avoid the appearance of such behaviour.

The complaint alleges that in the tone and content of his verbal attack on Councillor Forward, Councillor Lee breached article 3(2)(b) of the Code, regarding a requirement not to bully any person.

## **Complaint**

Criteria for decisions by the Standards Committee.

## **Initial Tests**

1. Before assessment of a complaint begins, the Standards Committee should be satisfied that the complaint meets the following tests:-
  - (a) it is a complaint against one or more named members of the Council;
  - (b) the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time; and
  - (c) the complaint, if proved, would be a breach of the Code under which the member was operating at the time of the alleged misconduct.
2. If the complaint fails one or more of the tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.
3. If the complaint passes these tests, the Standards Committee will go on to consider whether to take no action, whether to refer the complaint for investigation or whether to refer it to the Monitoring Officer for other action, such as a full hearing.

## **Application of Initial Tests**

4. In order to proceed, the Standards Committee has to consider the following:
  - (a) Councillor Lee is an elected member of Hastings Borough Council.

- (b) Councillor Lee was at the Full Council meeting on 26<sup>th</sup> October as a Councillor and therefore was in office as the time of the alleged conduct and the Code of Conduct was in force at that time. Evidence is provided by the transcript of the recording – Appendix B and the video although the sound quality is not good.
  - (c) Whether the conduct complained of would constitute a breach of the Code of Conduct.
5. The first question is easily answered as is the second as Councillor Lee was at a Council meeting. The third question is for members to decide.
  6. The Assessment Sub-Committee met on 8<sup>th</sup> December 2016 and considered if the complaint met the initial tests as set out in paragraph 1(a), (b) and (c) of the Chief Legal Officer and Monitoring Officer's report. It was agreed that the complaint did meet part (a), (b) and (c) of the tests.
  7. The Assessment Sub-Committee decided that the initial assessment had shown that there was a case to answer. The Assessment Sub-Committee felt that the evidence was sufficient to warrant an investigation and resolved that the Monitoring Officer appoint an external investigator. If the report of the external investigator suggested a breach of any part of the Code, the Monitoring Officer should arrange a hearing of the Standards Committee to decide what action to take and allow both the complainant and Councillor Lee to make their own submissions.
  8. Victoria Simpson of Orbis Public Law was appointed by the Monitoring Officer to conduct an investigation into the complaint against Councillor Lee. Victoria Simpson's report is attached in full at Appendix B and is dated 26<sup>th</sup> April 2017. The decision was taken to have the hearing after the local election on 4<sup>th</sup> May 2017 and the General Election on 8<sup>th</sup> June 2017 due to the nature of the complaint so as not to take place during Purdah. Victoria Simpson will be in attendance at the hearing on 29<sup>th</sup> June 2017 to present her report.

### **Decisions of the Standards Committee**

9. The Standards Committee is required to reach one of the following decisions;
  - (a) to decide what action to take; or
  - (b) any other action as appropriate.
10. Members are asked to consider appropriate sanctions.

The external investigator Victoria Simpson has listed the sanctions available to the Standards Committee in her report as follows:-

- (a) Publish its findings in respect of the member's conduct;
- (b) Write a formal letter to the councillor found to have breached the code;
- (c) Report its findings to Council for information;
- (d) Seek formal censure by motion;
- (e) Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (f) Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities,
- (g) Instruct the Monitoring Officer to arrange training, mediation or other appropriate remedy, for the Member.

11. Victoria Simpson has also added in her report that in reviewing all the sanctions available to the Standards Committee this may include requesting that Councillor Lee apologise to Councillor Forward.

### **The Decision and the Reasons for the Decision**

12. The Standards Committee will give a written summary of their decision which should include:-

- (a) the main points considered;
- (b) the conclusions on the complaint;
- (c) the reasons for the conclusions.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
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