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**Standards Committee Agenda**

**Wednesday, 22 September 2021 at 6.00 pm**

Council Chamber, Muriel Matters House, Breeds Place, Hastings, TN34 3UY.  
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# Agenda Item 3 Public Document Pack

## STANDARDS COMMITTEE

12 NOVEMBER 2020

Present: Councillors Roberts (Vice-Chair), Bishop and Edwards,

Independent Persons: Baker and McIntyre

### 31. APOLOGIES FOR ABSENCE

Apologies received from Councillors Barnett and Turner.

### 32. DECLARATIONS OF INTEREST

Councillor	Minute	Interest
Roberts	34.	Personal- Knows the complainant

### 33. MINUTES OF THE PREVIOUS MEETING HELD ON 30 SEPTEMBER 2019

**RESOLVED-** that the minutes of the meeting held on 30 September 2019 be approved as a true record

### 34. STANDARDS COMMITTEE

The Monitoring Officer presented a report to decide what action to take in respect of a complaint against Councillor X regarding the following paragraphs of the Code of Conduct:

- Paragraph 3.1- You must treat others with respect
- Paragraph 3.2 (b)- You must not bully any person
- Paragraph 5- You must not conduct yourself in a manner which could reasonably be regarded as bringing your office into dispute.

The Council's Monitoring Officer received a complaint on 23rd April 2020 from a person on behalf of the Broomgrove Residents Association (BRA) stating that Councillor X posted a Facebook comment on 25<sup>th</sup> March 2020 stating that BRA had closed the community centre and thus blocked access to the food bank for vulnerable residents. The post was incorrect and attracted negative comments about the Trustees of BRA. Councillor X also emailed fellow councillors trying to get them involved. The food bank re-opened on 14<sup>th</sup> April. The complainant asked Councillor X to remove the Facebook post and make a full public apology to the BRA trustees.

Councillor X removed the post on the GAP Facebook page but declined to make a public apology stating that he/she was acting in a personal capacity at the time he/she made the comments and not as a councillor of Hastings Borough Council.

The Committee asked questions of the Monitoring Officer and sought the views of both Independent Persons.

## STANDARDS COMMITTEE

12 NOVEMBER 2020

The Sub-Committee considered if the complaint met the initial tests as set out in the report:

- a) It is a complaint against one or more named councillors of the Council;
- b) The named councillor 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 councillor was operating at the time of the alleged misconduct.

The Committee felt that the complaints did not meet paragraph (b) of the initial tests and therefore the Code of Conduct was not engaged.

### **RESOLVED: (unanimously)**

**The Standards Committee after much debate decided there was no case to answer as Councillor X was not acting as a councillor for Hastings Borough Council when he/she posted the message on Facebook or when he/she sent various emails and thus the Code of Conduct does not apply. Unanimous decision.**

### Reasons for Decision

Councillors are entitled to a private life. Whilst the Councillors intentions were well meant the language used was ill-advised and could be interpreted as inflammatory. However, there was no evidence to show that he/she was acting as a councillor when he/she made the initial post or when he/she contacted other councillors. Anyone can contact councillors as their contact details are in the public domain. Whilst the councillor is responsible for their own actions the Committee came to the decision that the evidence was not compelling enough to say he/she did so as a councillor of Hastings Borough Council. They did collectively form a view that councillors need further awareness training of the Council's Policy on Social Media for Councillors and they need to be very careful as to their web domain address and how they refer to themselves.

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

None received.

*(The Chair declared the meeting closed at 1.03 pm)*

# Agenda Item 4



**Report to:** Annual Standards Committee

**Date of Meeting:** 22<sup>nd</sup> September 2021

**Report Title:** Annual Report of Standards Committee

**Report By:** Mary Kilner  
Chief Legal Officer and Statutory Monitoring Officer

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## **Purpose of Report**

To report on the activities of the Standards Committee for 2020-21.

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## **Recommendation(s)**

1. To note the contents of the report.

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## **Reasons for Recommendations**

1. To keep the Standards Committee advised of past complaints.
2. To inform the Standards Committee of procedures that worked well.
3. To contribute to continuous improvement of the way the Council deal with complaints about elected members.

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## 1. Introduction

- 1.1 The Council's Standards Committee promotes and maintains high standards of behaviour by ensuring that all elected councillors comply with the Council's Code of Conduct. The Code of Conduct is found at Part 5 of the Council's Constitution. All elected councillors sign a declaration to say that they will comply with the Code of Conduct upon their appointment to office.
- 1.2 The Code of Conduct and revised Standards arrangements were adopted by the Council in July 2012 in order to comply with the provisions of the Localism Act 2011. This introduced delegation to the Monitoring Officer to make an initial decision on whether the complaint requires investigation, with the power to consult with the Independent Person if required and the ability to refer particular complaints to the Standards Committee if that is appropriate, for example where the complaint is sensitive and/or serious.
- 1.3 Standards Committee has a membership of 7, of whom 5 are elected councillors and 2 are independent members. The elected councillors sitting on the Standards Committee in the last municipal year were Councillors Evans (Chair), Carr (Vice-Chair), Edwards, Pragnell and Roberts. The Committee is politically balanced.
- 1.4 The Localism Act 2011 requires the Council to appoint at least one Independent Person to assist with the standards process. Full Council previously recommended that two Independent Persons should be appointed in case of non-availability or a conflict of interest. The Localism Act requires that the views of the Independent Person must be sought on a complaint referred for investigation before the outcome of the complaint is determined. Also, the councillor who is subject to the complaint may discuss the matter with the Independent Person who will provide support to the councillor. The Independent Person's view would also be sought in terms of any sanction imposed on a councillor found to be in breach of the Code of Conduct.
- 1.5. At the Council meeting on 18th October 2017, John Baker and Amanda McIntyre were appointed as Independent Persons from 1st November 2017 to 31st October 2022.

## 2. Complaints

- 2.1 The Annual Standards Committee meeting was originally scheduled for 4<sup>th</sup> June 2020 and then 27<sup>th</sup> May 2021 but had to be cancelled due to the Covid-19 Pandemic. The last Annual Standards Committee meeting was held on 16<sup>th</sup> May 2019 and therefore this report covers the period from May 2019 to present date.

There were six complaints received by the Monitoring Officer during this period which were determined by the Standards Sub-Assessment meeting. In addition to this there were a few emails received by the Monitoring Officer which when asked to complete a Standards Complaints Form in order to proceed with the complaints the complainant did not wish to proceed or did not respond and the complaint was therefore withdrawn. It is only when the Standards Complaint Form has been received that the complaint is allocated a reference number, an electronic file opened and the complaint formally dealt with under our procedures. There were three complaints regarding Councillor behaviour at a Full Council meeting which were received by the Monitoring Officer during the purdah period. The Monitoring Officer postponed dealing with these until after the Local Elections in May 2020. Following discussions and meetings with the complainants it was decided not to proceed further with these three complaints.

- 2.2 As a result of a conflict of interest on one of the complaints received during this period the Council's Constitution was amended to allow members of the Standards Committee to appoint substitutes where they have a conflict of interest in any matter to be considered by the Standards Committee at that meeting.

### **3. Monitoring Officers Discretion**

- 3.1 The Monitoring Officer has discretion not to proceed with complaints where an investigation would not be in the public interest or the matter would not warrant any sanction or when the complaint is malicious, politically motivated or deemed not sufficiently serious. In these circumstances the Monitoring Officer may decide to seek the views of both Independent Persons and the Chair of the Standards Committee.

### **4. Sub-Assessment**

- 4.1 The Standards Assessment Sub-Committee met on four occasions during this period to determine the following complaints:-
- 4.2 The first complaint came from a member of the public and related to an allegation that a councillor had failed to declare a personal interest at a meeting of the Council's Planning Committee and that the meeting was not properly chaired. The Committee concluded that there was no breach of the Code of Conduct in that the Councillor did not have a connection sufficient to have required declaration of a personal interest. They did not consider that the Councillor brought the Council into disrepute. The Committee thought it would be helpful if refresher training on declaration of interests and the role of social media be given to all Councillors.

- 4.3 The second complaint related to allegations of antisemitism against a Councillor in terms of their membership of an organisation and various actions as an individual. The Monitoring Officer sought the views of an Independent Standards Consultancy. The Committee agreed with the external advice in that the Councillor was a member of the organisation complained of as a private individual and not through their role as a councillor. Association with any views expressed by the organisation did not have any formal relation to their role as a Councillor. The organisation was not a proscribed organisation. The Committee agreed with the external advice in that the Councillor was not conducting Council business when giving an interview. The Councillor was not engaged on Council business nor acting as a representative of the Council but expressing personal and party political views and the application of the Code would be a disproportionate restriction on X's freedom of speech. The Committee were not aware of any specified dress code for Council meetings, prohibition on wearing badges or reference in the Council's Constitution. They could find no evidence of malice in the Councillor wearing a specific badge and concluded that simply wearing the badge was not sufficient to engage the Code of Conduct. The Committee concluded that the Code of Conduct was not engaged on any of the elements of the complaint and no further action was to be taken.
- 4.4 The third complaint relating to the chairing of a Council meeting. The allegation was that the Councillor did not allow the complainant to complete their speech at a Council meeting and breached equalities duties falling below the standard expected of a Chair. The Committee watched the recording of the meeting and viewed the transcript. The Committee found that the Councillor controlled the meeting well, was polite and acted in accordance with the Council's Constitution, Code of Conduct and Equalities duties. The Committee found that the complainant was not speaking to the programme and that the Councillor was within their discretion under the Constitution to not allow the complainant to complete their speech. The Committee concluded that the Code of Conduct was not engaged on any of the elements of the complaint and no further action was to be taken.
- 4.5 The fourth complaint related to allegations that a Councillor accused another Councillor of anti-Semitism in a Council meeting. The Committee asked the Monitoring Officer to seek external advice as to whether the Code of Conduct was engaged and whether they consider on the evidence that was a case to answer as an independent view would be beneficial. The complainant subsequently withdrew their complaint against the Councillor.
- 4.6 The fifth complaint related to allegations that a Councillor made inappropriate comments at a Council meeting regarding a motion on people seeking asylum being able to seek immediate work. There were four complaints in total all from members of the public in the public gallery during the meeting. As all four complaints related to the same incident they were heard as one complaint. The



Monitoring Officer sought the views of an Independent Standards Consultancy. The Committee found that whilst the Councillor's choice of words were ill advised, there was insufficient evidence to find that the provisions of the Equality Act 2010 was specifically breached and therefore the Code of Conduct was not engaged. The Committee felt strongly that mandatory training for all Councillors on the duties set out in the Equalities Act should be organised as soon as possible. The Committee considered that the balance between Freedom of Expression under Article 10 of the European Convention on Human Rights and treating others with respect under the Code of Conduct was a fine line but one which they did not consider having been crossed on this occasion.

- 4.7 The sixth complaint came from a member of the public and related to a Facebook post made by a Councillor following the closure of the Broomgrove Community Centre and access to the food bank for vulnerable residents. The Committee decided there was no case to answer as the Councillor was not acting as a councillor when they posted the message on Facebook and thus the Code of Conduct did not apply. The Committee felt that the language used was ill-advised and could be interpreted as inflammatory however, there was no evidence to show that they were acting as a councillor at that time. The Committee requested that all councillors receive further training of the Council's Policy on Social Media for Councillors.

## 5. Training

- 5.1 A training session was arranged for members of the Standards Committee and Independent Persons on 19<sup>th</sup> August 2019 for those Councillors who acted as a substitute on the Standards Committee as Councillors are required to attend training in order to sit on the Standards Committee. The training was provided by the Monitoring Officer and Deputy Monitoring Officer. A training session is arranged for members of the Standards Committee on 22<sup>nd</sup> September immediately before the Annual Standards Committee meeting. New members of the Standards Committee will also be introduced to the two Independent Persons, John Baker and Amanda McIntyre who will explain what their role is in the standards process.

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### Wards Affected

None

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### Policy Implications

[Have you checked this report for plain English and readability? Yes](#)

## Climate change implications considered? Yes

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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	No
Anti-Poverty	No

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### Additional Information

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#### Officer to Contact

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