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| To: | **Standards Committee** |
| Date: | **1 November 2017** |
| Report of: | **Acting Head of Law and Governance** |
| Title of Report: | **Assessment Panel Decision Notices** |

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| Summary and recommendations | |
| Purpose of report: | To update the Committee on the work carried out by the Council’s Assessment Panel |
| Key decision: | No |
| Recommendation: That the Committee **notes the decision notices issued by the Council’s Assessment Panel** | |

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| Appendices | |
| Appendix 1 | Decision notices published |

# Introduction and background

1. In compliance with legislation relating to the standards and conduct of elected councillors, the Council has in place complaints handling arrangements which set out how a member of the public may make a formal complaint that an elected or co-opted member of this Council, or of a Parish Council within our area, has failed to comply with the authority’s Members’ Code of Conduct, and set out how the authority will deal with allegations of a failure to comply with the Code of Conduct. Information is available on the Council’s website or from the Committee and Members’ Services team.
2. Council is responsible for appointing suitable Independent Persons for the purpose of considering any complaints received about possible breaches of the Code of Conduct, and advising the Monitoring Officer what actions should be taken. They sit together with the Monitoring Officer as an Assessment Panel. The Monitoring Officer has authority to decide the final action taken in respect of the complaint, having due regard to the recommendation of the Panel.
3. Council agreed on 20 July 2017 to reappoint for two years the four persons who have served in this role since July 2012.
4. The options open to the Assessment Panel are:

* Investigation - refer the matter to the Monitoring Officer for formal investigation;
* Other action - refer the matter to the Monitoring Officer for informal resolution; or
* No action - decide that no action should be taken in respect of the allegation.

1. Since the last meeting of the Standards Committee four formal complaints have been made against four different Members of the Oxford City Council and the Assessment Panel has met to consider each of these. In all of the cases it was decided that they did not merit investigation. In three cases no action was taken; in one case the Assessment Panel recommended that the Councillor make formal apologies.
2. The decision is recorded in a decision notice which is sent to the complainant and the Councillor complained against and is published on the website.
3. Copies of the decision notices issued on behalf of the Assessment Panel are attached to this report for information at Appendix 1, 2, 3 and 4.
4. It should be noted that the Assessment Panel cannot by itself find that a councillor has breached the code of conduct as the evidence before them is limited.
5. In the case where the Assessment Panel recommended requiring apologies, the Monitoring Officer instructed the Councillor who made full apologies within the time specified.

# Conclusion

1. The Committee is asked to note the complaints received and the Assessment Panel decisions.

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**Appendix 1**

**Standards Complaint Decision Notice - meeting on 4 February 2016**

**Meeting of: Standards Assessment Panel**

Jeremy Thomas (Monitoring Officer)

Godfrey Cole (Independent Person)

Jill McCleery (Independent Person)

Ben Simpson (Independent Person)

**Oxford City Council Officers**

Pat Jones (Clerk)

**Date of meeting:** 4 February 2016

**Complaint against:** Councillor Roy Darke

**Complainant:** Mrs Elaine Bennett

**Date of Complaint:** 11 January 2016 (received 11 January 2016)

**Complaint**

The Monitoring Officer has received a complaint from Mrs Elaine Bennett of 390 Marston Road, Oxford that Councillor Roy Darke may have failed to comply with the Members’ Code of Conduct

The complainant alleges that Councillor Darke wrote a letter which was published in the Oxford Mail on 15th December 2015 which “contained inaccurate statements and personal defamation and disrespect towards myself and Betty Fletcher”

On 26th November 2015 an article “Kicking up a stink for a solution to sewage flooding”, was published in the Oxford Mail (page 12) about the work that Councillor Darke has done in his capacity as an Oxford City Councillor in respect of Headington Hill and Northway, in particular his work to find a resolution to the problem of repeated local foul water flooding in New Marston.

A letter of reply “Overdevelopment without adequate infrastructure”, by Elaine Bennett and Betty Fletcher was published in the Oxford Mail on 3rd December 2015. That letter highlighted various concerns about drainage in the area.

A letter in response “I’ve worked to solve historic problems with surface floods”, from Councillor Darke was published in the Oxford Mail on 15th December.

**Consideration**

The Panel considered that the exchange of letters in the pages of the Oxford Mail constituted legitimate public debate on an issue of local importance and concern.

It is not the function of the Code of Conduct to discourage or inhibit such public debate which is a necessary feature of a democratic society. Whilst the Code was potentially engaged the terms of the letter of reply from Councillor Darke published on the 15 December 2015, although robust in parts, was reasoned in its content so did not, in the view of the Panel, fail to treat the complainant with respect in that it was not personally abusive.

**Decision**

Having considered all of the written material provided the Monitoring Officer and Independent Persons were satisfied that the complaint did not merit investigation.

The Panel concluded that no further action was required in respect of the complaint.

**Date published: 10 February 2016**

**Standards Complaint Decision Notice - meeting on 3 May 2016**

**Meeting of: Standards Assessment Panel**

Chris Ballinger (Independent Person) - Chair

Jill McCleery (Independent Person)

Ben Simpson (Independent Person)

with

Lindsay Cane (Deputy Monitoring Officer)

**Oxford City Council Officers**

Catherine Phythian (Clerk)

**Date of meeting:** 3 May 2016

**Complaint against:** Cllr Edward Turner

**Complainant:** Mr Chaka Artwell

**Date of Complaint:** 15 March 2016 (received by Monitoring Officer on 29 March 2016)

**Complaint**

The complainant alleges that:

“Councillor Turner has abused his position as a Councillor and breached each and all of paragraphs 1 to 12, inclusive, of the Code of Conduct”

in that:

“Councillor Turner had no right to contact Mr & Mrs Davis, and had no right to “persuade” them to withdraw my address without my consent.”

**Consideration**

The Monitoring Officer wrote to Councillor Turner with a copy of the complaint and asked Councillor Turner if he would like to provide a response. Councillor Turner provided:

* a copy of his email dated 4 February 2016 to Council Officers explaining that he had spoken to Mr Davis who had indicated that he wished to withdraw the address to Council;
* an email statement dated 18 April 2016 to the Monitoring Officer detailing his view of the events relating to the allegations made by the complainant

The Deputy Monitoring Officer reviewed the complaint and consulted with the Independent Persons appointed by the City Council to advise on Standards complaints, at a Standards Assessment Panel meeting on 3 May 2016. The purpose of the Standards Assessment Panel consideration was to determine whether the complaint merited investigation.

The Independent Persons and Deputy Monitoring Officer and considered the following evidence at the meeting convened on 3 May 2016:

1. Monitoring Officer’s report
2. Complaint Form
3. Members code of conduct
4. Response to complaint from Councillor Turner
5. Address submitted by Mr Artwell on behalf of Mr and Mrs Davis
6. Email from Councillor Turner
7. Email exchange between Mr Artwell and Jennifer Thompson (OCC) regarding speech to Council
8. Stage 1 complaint from Mr Artwell (Corporate complaints procedure)
9. Response from Jeremy Thomas (Monitoring Officer)
10. Stage 2 complaint from Mr Artwell
11. Response from the Mike Newman (OCC Officer)

**Decision**

Having thoroughly considered all of the written material provided to them by the complainant and by Councillor Turner the Standards Assessment Panel were satisfied that the complaint did not merit investigation.

In reaching this decision the Standards Assessment Panel had considered and had regard to:

* each of the allegations of breaches of the Oxford City Council Members’ Code of Conduct (the paragraphs 1 to 12 referred to by the complainant);
* the overall tenor of the Code, and each requirement of the Code as cited by the complainant, in particular the paragraph concerning bullying; and
* the details of the separate complaint against the Council Officer but only in so far as it was relevant to the determination of this complaint

The Standards Assessment Panel concluded that no further action was required in respect of the complaint.

**Dated: 6 May 2016**

**Standards Complaint Decision Notice - meeting on 27 July 2016**

**Meeting of Standards Assessment Panel**

Chris Ballinger (Independent Person)

Godfrey Cole (Independent Person)

Jill McCleery (Independent Person)

Ben Simpson (Independent Person) - Chair

with

Lindsay Cane (Deputy Monitoring Officer)

**Oxford City Council Officers**

Jennifer Thompson (Clerk)

**Date of meeting:** 27 July 2016

**Complaint against:** Cllr Mike Rowley

**Complainant:** Mr Gregoriy Galitzine

**Date of Complaint:** 29 June 2016 (received by Monitoring Officer)

**Complaint**

The complainant states that

“It was shocking and disturbing to read in the Oxford Mail that Councillor Rowley was ejected after trying to gain entry to the town hall, the paper printed pictures of the councillor fighting off council security officials totally unbecoming for a person in public office. It was reported that the councillor was taken home by the police”.

The complainant further states that “I feel the councillor has damaged image of the office of a councillor and as reported why was the councillor driven home by the police? Are they now a taxi service for public officials?”

**Consideration**

The Monitoring Officer wrote to Councillor Rowley with a copy of the complaint and asked Councillor Rowley if he would like to provide a response.

The Monitoring Officer collated publicly available information:

1. Complaint form;
2. An Oxford Mail article reporting the incident complained about;
3. A BBC website article mentioning the incident complained about; and provided a number of internal documents readily available to him:
4. three incident witness reports from Council officers
5. an incident report form from the security guard on duty;
6. a Police statement sent to the Strategic Director
7. a series of emails provided by Councillor Rowley in relation to the complaint that has been made including his response to the Monitoring Officer.

The Deputy Monitoring Officer reviewed the complaint and consulted with the Independent Persons appointed by the City Council to advise on Standards complaints at a Standards Assessment Panel meeting on 27 July 2016. The purpose of the Standards Assessment Panel consideration was to determine whether the complaint merited investigation.

The Independent Persons and Deputy Monitoring Officer considered the evidence listed above at the meeting held on 27 July 2016 along with the complaint form, the councillors’ code of conduct, and the Monitoring Officer’s report setting out the relevant paragraphs of the code and the options open to him,.

**Decision**

Having thoroughly considered all of the written material provided to them by the complainant, the Monitoring Officer, and Councillor Rowley, the Standards Assessment Panel were of the view that the events and conduct complained of would be best dealt with by Councillor Rowley making a formal apology.

They noted that in his representations to the Panel and in his statements to the media Councillor Rowley had apologised for what happened, but there was no evidence before them that he had made a formal apology directly to those affected. Given the public nature of the incident, they were of the view there needed to be a public resolution to the complaint as well as a private one.

The Panel made the following decision -

In the event that Councillor Rowley delivers

1. a full and frank letter of apology addressed to the Town Hall and security staff involved, in terms to be approved by the Monitoring Officer; and
2. a full and frank statement of apology to the next ordinary meeting of Council in terms to be approved by the Monitoring Officer.

then as this informal resolution would be satisfactory no further action will be taken in relation to the complaint.

The Panel however reserved the right that in the event that Councillor Rowley fails to comply with 1 above by 19 August 2016 and fails to comply with 2 above then they would decide whether to recommend that the complaint is to be referred for formal investigation.

The Panel did not comment on the decisions of Thames Valley Police as this fell outside their remit.

**Dated: 9 August 2016**

**Standards Complaint Decision Notice - meeting on 7 March 2017**

**Meeting of Standards Assessment Panel**

Chris Ballinger (Independent Person)

Godfrey Cole (Independent Person)

Jill McCleery (Independent Person)

with

Lindsay Cane (Monitoring Officer)

**Oxford City Council Officers**

Jennifer Thompson (Clerk)

Emma Grifiths (Laywer)

**Date of meeting:** 7 March 2017

**Complaint against:** Cllr John Tanner

**Complainant:** Mr Alexander Curtis

**Date of Complaint:** 21 February 2017 (received by Monitoring Officer)

**Complaint**

The complainant stated that

*“Cllr. Tanner claimed on BBC Radio Oxford on the morning of the 20th February 2017 that he would like to go to some of these rough sleepers and say that they are a disgrace. He claimed that although he didn’t think that such an action would do any good, “they ought to have more respect.”*

*This has been reported in the Oxford Mail, and was overheard by at least hundreds of listeners, bringing the council into disrepute. Given Cllr. Tanner’s senior position as an Oxford City Council Board Member and the recent controversy surrounding Oxford City Council’s City Centre Public Space Protection Order (PSPO), it is possible that his remarks have damaged public confidence in the leadership that should be shown by both him and the council.*

*Additionally, on top of showing a lack of respect towards homeless people, the threatening nature of Cllr. Tanner’s remarks towards the homeless of Oxford, a vulnerable group, could be interpreted as bullying. This is because a senior member of the local authority in which they reside has humiliated them and potentially caused significant harm to the self-confidence of individual homeless people in Oxford.*

*Because of each of these realities, I believe that Cllr. Tanner has breached each of the clauses of the Oxford City Council Member’s Code of Conduct which are outlined below.*

*8.) promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example in a way that secures or preserves public confidence.*

*9.) treat others with respect and ensure that they are aware of and comply with all legal obligations that apply to them as a member or co-opted member of the council and act within the law.*

*10.) must not bully any person.”*

**Consideration**

The Monitoring Officer wrote to Councillor Tanner with a copy of the complaint and asked Councillor Tanner if he would like to provide a response.

For consideration by the Independent Persons, the Monitoring Officer collated publicly available information including:

1. Transcript of the relevant section of the BBC Radio Oxford broadcast on 20 February (discussion piece on Howard Bentham’s morning programme);
2. Transcript of the unsolicited apology given by Councillor Tanner at Council on 20 February (filmed and available on the Council’s website);
3. An Oxford Mail article on 21 February reporting Cllr Tanner’s apology
4. <http://www.oxfordmail.co.uk/news/15104915.Councillor_apologises_after_calling_beggars__a_disgrace_/>
5. Several links to other articles and BBC Radio Facebook videos relating to the remarks in the broadcast (although these were not comprehensive).

and provided a number of internal documents readily available to him:

1. an email from Cllr Tanner to the Committee Services Manager to be circulated to all councillors apologising for his remarks;
2. an email provided by Councillor Tanner responding to the complaint including the text of his apology to councillors and the text of a press release sent out which formed part of (e) and the article at (c)

The Monitoring Officer reviewed the complaint and consulted with the Independent Persons appointed by the City Council to advise on Standards complaints at a meeting on 7 March 2017. The purpose was to determine if the complaint merited investigation; or to take no action; or recommend other action should be taken.

The Independent Persons and Monitoring Officer considered the evidence listed above along with the complaint form, the councillors’ code of conduct, and the Monitoring Officer’s report setting out the relevant paragraphs of the code and the options open to them.

**Decision**

Having thoroughly considered all of the material provided to them, the Standards Assessment Panel decided that given the particular circumstances of this case, including Councillor Tanner’s subsequent actions, no action should be taken in respect of the allegation. The Panel took the view that although Councillor Tanner’s conduct may be deemed to have engaged the Code of Conduct this was to a relatively minor degree. They were satisfied that his subsequent actions and apology allowed them to dismiss the matter without the need for further action. The matter did not warrant a full investigation.

The Panel expressed the view that given Councillor Tanner’s high profile, his status as a county and city councillor, and his position as a councillor invited to participate in the radio debate, his statements could be deemed to carry more weight and authority than similar statements made by a member of the public. There could therefore be unintended consequences resulting from an ill-considered response. However, the Panel noted that before he was aware of the complaint, Councillor Tanner had apologised formally to Council (on the day of the broadcast); had apologised by email to all councillors; and had issued a press release setting out his apology.

The Panel noted that by so doing, Councillor Tanner had voluntarily and speedily undertaken the actions the Panel would have been likely to have required of him and that he had taken reasonable and effective steps to make amends for the lapse in judgement.

**The Panel made the following decision:**

To note the complaint; the incident referred to; and the actions taken by Councillor Tanner; and to take no action.

**Dated: 14 March 2017**