

Meeting of the Standards Sub-Committee

Tuesday, 27th February, 2018 at 10.30am

In Committee Room 3 at the Council House, Priory Road, Dudley

Agenda - Public Session

(Meeting open to the public and press)

1. Apologies for absence.
2. To report the appointment of any substitute Members for this meeting of the Committee.
3. To receive any declarations of interest under the Members' Code of Conduct.
4. Standards Investigation (Pages 1-46)
5. To consider any questions from Members to the Chair where two clear days notice has been given to the Monitoring Officer (Council Procedure Rule 11.8).



Chief Executive

Dated:19th February, 2018

Distribution:

Councillor M Evans (Chair)

Councillors A. Aston; H Rogers

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- In the event of the alarms sounding, please leave the building by the nearest exit. There are Officers who will assist you in the event of this happening, please follow their instructions.
- There is no smoking on the premises in line with national legislation. It is an offence to smoke in or on these premises.
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- Information about the Council and our meetings can be viewed on the website www.dudley.gov.uk
- Elected Members can submit apologies by contacting Democratic Services. The appointment of any Substitute Member(s) by the Opposition Groups should be notified to Democratic Services at least one hour before the meeting starts.
- You can contact Democratic Services by Telephone 01384 815238 or E-mail Democratic.Services@dudley.gov.uk



Standards Sub-Committee – 27th February 2018

Report of the Monitoring Officer

Standards Investigation - Councillor B Etheridge

Purpose of Report

1. To consider and determine the outcome of a standards investigation undertaken in respect of Councillor B Etheridge in accordance with the Members Code of Conduct and the local Standards Arrangements set out in the Council's Constitution.

Recommendation

2. That the Sub-Committee determine the matter in relation to Councillor Etheridge based on the investigation referred to in this report.

Background

- 3 After a meeting of the Council held on 9th October, 2017, Councillor Etheridge posted two video recordings, one immediately after the Council meeting, and one the following day. He posted these recordings on Facebook. Councillor P Lowe made a complaint (Appendix 1) against Councillor Etheridge expressing concern about the tone and language used in both video posts (Appendix 2- transcript of both recordings).
4. Councillor Lowe alleges that both video posts are:
 - Derogatory to Councillors and the Mayor
 - Inflammatory in tone
 - Contrary to the Nolan Principles in Public Life
 - Threatening
 - Disrespectful
 - Not befitting the conduct of an elected official
5. The relevant provisions of the Members Code of Conduct are in paragraph 3 (page F10) (summarised in part below):
 - Valuing colleagues and engaging with them in an appropriate manner and one that underpins the mutual respect that is essential to local government
 - Always treating people with respect
 - Providing leadership through behaving in accordance with these principles when championing the interests of the community.

6. Following the complaint made by Councillor Lowe concerning the breach of the above provisions, the Monitoring Officer consulted an Independent Person appointed under the provisions of the Localism Act 2011. Having discussed the complaint with the Independent Person the Monitoring Officer wrote to Councillor Etheridge suggesting an informal resolution of the complaint if he was prepared to provide an apology in words to be agreed (Appendix 3). Councillor Etheridge responded that there would be no apology and he stood by every word he had said (Appendix 4). Therefore, it was determined that the matter required further formal independent investigation and referred to Mr John Austin. Councillor Etheridge was informed that this investigation would take place.
7. Mr Austin has concluded that there is evidence of a failure to comply with the Council's Code of Conduct, and Cllr Etheridge's behaviour does constitute a breach of paragraph 3 of the Members' Code of Conduct (Appendix 5).
8. The Monitoring Officer forwarded Mr Austin's report to Councillor Etheridge and following consultation with the Independent Person, again offered an informal resolution route by way of an apology (Appendix 6). Councillor Etheridge responded that no apology will be forthcoming and he stood by his remarks (Appendix 7). It was, therefore, determined that the matter required a referral to the Standards Sub-Committee.
9. The Sub-Committee is requested to determine the appropriate course of action in this case. The Sub-Committee is reminded that any action, following a finding of a breach of the Code of Conduct, must be proportionate taking account of the facts and circumstances of each individual case. The Sub-Committee has no power to suspend or disqualify a Member from office. The Standards Arrangements, as contained in the Constitution state that the Sub-Committee may consider the following (although this is not an exhaustive list):-
 - Reporting the findings to Council.
 - Recommending to the Member's Group Leader that the Member in question be removed from the Cabinet, any or all Committees or Sub-Committees of the Council or Other Bodies subject to statutory and constitutional requirements.
 - Formal letter from the Council or the Chair of the Audit and Standards Committee to the Member in question.
 - Formal censure through a motion.
 - Withdrawal of facilities (eg: ICT).
 - Arrange training for the Member.

Finance

10. The cost of the investigation has been met from within existing Directorate resources.

Law

11. The Members' Code of Conduct and the Standards Arrangements have been adopted by the Council under the provisions of the Localism Act 2011 and associated guidance. These documents are set out in Part 6 of the Council's Constitution.

Equality Impact

- 12. The procedure for Standards hearings takes account and is consistent with the Council's Equality and Diversity Policies.

Human Resources/Transformation

- 13. There are no issues arising from this report.



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Mohammed Farooq
Monitoring Officer

Background Papers

Dudley MBC Constitution - Members' Code of Conduct and Standards Arrangements



Complaint Form – Code of Conduct for Members

Important: Please read Dudley Council's arrangements for dealing with standards allegations under the Localism Act 2011 before completing this form. This document includes the Members' Code of Conduct and is published on our website and available from the Monitoring Officer (contact details are shown below).

To: The Monitoring Officer, Dudley MBC

A. Your details

Please provide us with your name and contact details. The Council will not investigate anonymous complaints, unless there is a clear public interest in doing so.

Title:	Cllr
First name:	Pete
Last name:	Lowe
Address:	
Contact telephone:	
Email address:	<u>Cllr.peter.lowe@dudleymbc.org.uk</u>
Signature:	Via email
Date of complaint:	Tuesday 9/10/17

There is a presumption that a complainant will not be allowed to claim confidentiality unless there are exceptional circumstances.

If you want to keep your name, address or personal contact details confidential, please indicate this in Section C together with the reasons for doing so.

If you complete Section C of this form, we will not immediately disclose your name and other information to the Member against whom you make the complaint, without your prior consent and/or without taking further advice based on the circumstances of the case.

B. Making your complaint

Please provide us with the name of the Member(s) you believe have breached the Council's Code of Conduct:

Title	First name	Last name
Cllr	Bill	Etheridge

Please explain below (or on separate sheet(s)) what the Member is alleged to have done that you believe breaches the Code of Conduct. You should identify the specific provision(s) that you feel the Member has breached. If you are complaining about more than one member you should clearly explain what each individual person has done, with dates / witnesses to substantiate the alleged breach.

It is important that you provide all the evidence you wish to have taken into account when we make a decision as to whether to take any action on your complaint or not.

For example:

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the Member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Two video's (awaiting transcript as requested but links previously send via email on Tuesday 9.12.17) that are.

Derogatory to Cllrs and Mayor
Inflammatory in tone
Contrary to the Nolan Principles in Public life
Threatening
Disrespectful
Not befitting the conduct of a elected official.

I am sending this complaint with the full support of shadow cabinet.

(Continue on separate sheet(s), as necessary)

C. Confidentiality of complainant and the complaint details

Only complete this next section if you are requesting that your identity is kept confidential

In the interests of fairness and the rules of natural justice, we believe that Members who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against them. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reason to believe that you have justifiable grounds. For example that you believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with the same).

If you complete this Section, we will not immediately disclose your name and other information without your prior consent. The Monitoring Officer may, however, need to take further advice based on the circumstances of the case before coming to a decision. If your request for confidentiality is not granted, the Monitoring Officer will usually allow you the opportunity of withdrawing your complaint.

However, it is important to understand that, in exceptional circumstances, where the matter complained about is very serious - we may have to proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name, contact information and/or the details of your complaint:

(Continue on separate sheet(s), as necessary)

D. Remedy sought

Please refer to the separate document on Dudley Council's arrangements for dealing with standards allegations under the Localism Act 2011. This document sets out examples of the action that might be considered in cases where it is found that a Member has failed to comply with the Code of Conduct.

It is important to note that a Member cannot be suspended or disqualified from office and allowances cannot be withdrawn from Members pending or following an investigation under the Council's Code of Conduct.

Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint:

Full use of the limited powers that we have.

(Continue on separate sheet(s), as necessary)

E. Additional information

Complaints must be submitted in writing. This includes electronic submissions. Frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.

In line with the requirements of the Disability Discrimination Act 1995 and the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language. If you need any support in completing this form, please contact the Monitoring Officer.

The Monitoring Officer will consider your complaint and advise you of the outcome of his initial consideration of the matter and the proposed action (if any).

Please send all completed complaint forms to: Mohammed Farooq, Monitoring Officer, Dudley MBC, The Council House, Dudley, West Midlands DY1 1HF (Tel: 01384 815305)

E-mail: mohammed.farooq@dudley.gov.uk

**Part 1 Video Transcript – Cllr. Bill Etheridge in front of Dudley Council House
– Monday 9th October 2017**

I am outside Dudley Council Chamber where once again tonight we have seen an appalling disgusting display of cronyism and the worst excesses of the Labour Party.

We've had half a, we had 2 motions put forward, one from UKIP about trees cut back in an area where there is a lot of complaints from the people about trees and instead these virtue signalling socialist do-gooder bleeding hard communist rat bags talked it out because they wanted to get something, a letter sent to the prime minister about gender equality.

It's cobblers. It's absolute cobblers. These people waste everyone's time and money. They're a disgrace. And when we try to raise issues with it their crony Mayor in his Dick Whittington outfit, silenced us and threatened to have the Leader of the UKIP group removed from the Council Building. Hi Nick.

This is an example of the crony state, hi Gordon, the crony state, the pathetic tin pot nobodies who are involved in local politics. These people are an absolute disgrace. We will be standing up against their petty pinko labour left bullying bullshit, constantly. There will be no, matter..there will be fluid and shit in there tonight being spoken by the Labour Party. These people are an absolute disgrace.

We,..we were told that our Leader, Paul Brothwood, will be thrown out tonight. We said if you got to take him out you take all of us out. They adjourned the meeting and they couldn't do anything about it. We will not be silenced. We will never be silenced by a crony of the Labour party and the establishment.

The best thing that could happen for the people of Dudley is for this building to be demolished and for all of these phony so-called representatives of the people, frankly I wouldn't care if they are in at the time it was demolished. But frankly, it's time that there was change here. People of Dudley, people of the area, listen to what's happened tonight. We've tried to speak up for you and we've been silenced again by crony Mayor, Mayor Dave Tyler, appointed by the Labour Party. Their mouth thief..piece, their absolute mouth piece who

won't allow us to speak . We were in a meeting for three hours tonight. You know how often we were allowed to speak? Three times maybe, if that. This is typical of the state we live in. We must fight it and your representatives from UKIP on the local Council, bodies, will fight these pinko , disgusting state slaves to the end. This is not over. Labour Party in Dudley, listen, this is not over. There is going to be a lot more to come. Watch this space.

Part 2 Video Transcript – Cllr. Bill Etheridge – Tuesday 10th October 2017

Good morning everyone...erm I think it's time for a follow up on the events of last night, just so everyone's fully up to speed with what's going on. Also, obviously at the end, after I've said what I've got to say, if there's anyone actually tuning in and you want to ask any questions I'm always open to answer questions.

Last night at Dudley Council meeting...erm the opportunity was there to discuss issues that matter to the local borough and there are a lot. It is a difficult time, spending has got to be reassessed and priorities have got to be organised. Instead of discussing these things, we spent an interminable amount of time with councillors, mourning the death of a former councillor, who hadn't been a councillor for some time. Now I'm very, very sorry to hear of anyone's passing and I think it's good that people should pay their respects, maybe not during the council meeting when we're there to try and deal with the problems of our area, maybe there's another time, a better time.

Then we move on and we have a presentation by the Mayor to Halesowen for Halesowen in bloom. Really genuine, sincere congratulations to the people who won that presentation, well done. Maybe the full council meeting isn't the time for things like that, time is money, we are a business meeting, we're supposed to be running the business of the council and instead of that we were having presentations and award ceremonies. There's another opportunity for that, surely this isn't appropriate during the full council meeting. I don't care if that's how it's always been done. That's not an argument to keep doing something because it's always been done wrong. It's not an argument to continue doing it that way...erm hi Robert.

Now the worst part of it was there's an area of each meeting allocated for motions. Now we passed, we put forward a motion calling on a review to try and get more money for the tree maintenance and care in the Dudley borough. Believe it or not, for those of you who don't live in the area, we've got a huge amount of trees in our area and they've been allowed, it's great, but they've been allowed to run out of control; many of them have got preservation orders on them...err people aren't allowed to cut them back, so you've got people whose properties are being 'benighted' by this. There's no daylight coming through, literally there's parts that are like a forest...erm you've got...erm sap falling onto people's cars - they're having to invest in tarpaulins to cover the cars. You've got a situation where drains and guttering are being blocked up by falling leaves...err and twigs and it's making life impossible. You've got roots coming through tarmac. It's almost impossible for people to live properly in certain parts of Dudley borough because the trees are out of control. Trees which may I add are actually...erm actually on council property...Dean Perks going into a budget meeting with Labour and Conservatives – give them hell mate...erm, so yeah we have a situation here but we put through, put forward a motion for this but we were slipped ahead of by the Labour party who put forward a motion about gender equality and then proceeded to talk out the time available for debate with a series of virtue signalling, bleeding heart, do-gooding, utter bullshit speeches. Each one of these people is elected to be a local councillor to deal with local issues.

They aren't politicians, they aren't politicians, they aren't there to pontificate about national issues or try and change the world. They're there to make sure that the bloody potholes are filled in, that's what they're there for. They're there to make sure the trees are cut back, they're there to make sure the rubbish is collected. They are not there to give their world view cos frankly nobody gives a damn what their world view is. All people want a local councillor to do is be on hand and deal with the issues locally. Any councillors watching I'd say to you the clue is in the title 'local councillor' alright you know. This is the nonsense we have to deal with, constant nonsense. These wannabe politicians spending, wasting everybody's time so our motion on the trees was talked out. They filibustered. Well done, well done you did something they do in parliament. It's the closest any of you are going to get but then when we tried, leader of our council group Paul Brothwood tried to intervene with a point of order, a very important legal point of order, what happened, the Mayor, oh yeah and believe me we still have in the 21st century, in 2017 in Dudley, we still have a man dressed as Dick Whittington who goes around, he changes every year by the way but they go round supposedly raising money for charity but the cost of how much it costs to put these morons in place to go around in fancy dress doesn't normally bite quite significantly into whatever money they've made for charity. I'd rather us just donate half of the money we give to pay for the Mayor to charity and be done with the nonsense because what you get is you get these morons who are put in place who are frankly only there because they're time served politicians who've been good little boys and girls and have done what they've been told to do for years and years and they get put into position. They're supposed to chair the meetings, they haven't a clue on what they're doing and the person we have now, Dave Tyler, who is a Labour party person, frankly last night his behaviour was reprehensible, disgraceful and he brought the Borough into disrepute and I hope people are listening to this because I would like anyone in Dudley Council to take me to task on these words because Dave Tyler, the current Mayor of Dudley is an utter disgrace, an utter disgrace, he brings shame onto his office and I will be sending in a formal letter of complaint and demanding that he stands down because this man who, when our council group leader, made the effort to raise a point of order three times told him to shut up and sit down and on the third time actually stood up in a menacing physical manner to which, well done to Paul Brothwood, he stood his ground and said no, listen. He then, the Mayor, tried to eject him from the meeting to which all of us in the UKIP group said 'over our dead bodies'. They had to adjourn the meeting. They then came back into the meeting, this procession of imbeciles, dressed in their stupid fancy dress and they then put forward a motion to say Brothwood wasn't allowed to speak again, all night and they put it forward and all the Labour Party voted for it, laughing away because suppression of free speech is natural to the Labour party, that's what they do. We all voted of course – the 7 of us UKIP-ers, well 6 I think were there last night, to keep him allowed to speak and the Conservative Party, those heroes of free speech, those protectors of the bright shining torch of freedom, well they abstained, they abstained. Pathetic, you know what the difference in Dudley is between a Conservative and a UKIP? a member of UKIP's got some guts, that's the difference. So, I won't be letting this lie...err I've made it very clear last night to Mr Tyler what I think of him and if he didn't catch it,

I'm going to make sure he gets it and then next time we have a meeting, I'm going to call upon all of the residents of Dudley to come to the next council meeting. I'd like to see you please, if you could come outside...err and organise yourselves outside on the council steps and make sure when these tin pot dictators, these tiny little men and women walk in, lets focus their mind on what matters, lets focus their mind on what the people really need because I'll be doing it. We'll also be organising a public meeting in the Sedgley area, because I think that's where most of the complaints have come from, but it might change...err for people to come and vent their spleen about this...erm so we'll...erm, we'll be making sure that we get a chance to get a public meeting together on this and next council meeting I guarantee you that they will, they will hear us. I guarantee you and I hereby state, here and now and I hope. I'd like this message to be passed around and I'd like the people of Dudley Council to see this, I have zero respect for the office of Mayor and for the Mayor himself and I will be showing that zero respect at the next council meeting – what are you going to do about it?

The challenge is laid – what are you going to do to a democratically elected representative on this council? Because I tell you now I'm not going to back down on this – you want, you want to flex your little muscles? Well flex them with me. So the threat's out there, the challenge is out there.

Dudley Council what are you going to do about the fact that I refuse to respect the authority of the Mayor until we've had an official and formal apology from this imbecile about his behaviour.

Over to you Dudley Council.

Mohammed Farooq

From: Mohammed Farooq
Sent: 15 November 2017 17:25
To: Cllr. Bill Etheridge
Cc: Kay Gibbon
Subject: Strictly Private & Confidential - Complaint - Members' Code of Conduct
Attachments: Copier_20171115_122302.pdf

Importance: High
Sensitivity: Confidential

Dear Councillor Etheridge

Further to our previous communication, please find attached the complaint from Councillor P Lowe. He alleges that you have breached the Members' Code of Conduct following the comments you made in two videos posted on Facebook after the full Council meeting on 9th October, 2017.

As previously indicated, I have now met with the Independent Person (Rt Revd G Usher, Bishop of Dudley) and after consideration of your comments (a transcript of the two recordings is attached), we are of the view that prima facie there has been a breach of the Members' Code of Conduct, which necessitates a further investigation.

The breach of the Members' Code of Conduct includes, but is not limited to, the following standards of conduct:-

- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside, and not bullying any person.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Council.

Any investigation may identify further breaches of the Members' Code of Conduct.

As the Monitoring Officer, I can seek to resolve the complaint informally in consultation with the Independent Person. Having discussed this with the Bishop of Dudley, we are of the view that the complaint by Councillor P Lowe could be resolved informally if you are prepared to provide a full and unreserved apology in words to be agreed. The apology should be made using the same media as you used to make the original comments (ie: Facebook etc). That would then bring the matter to a close.

Please note that if you refuse the reasonable offer of informal resolution, as per the procedure, I as the Council's Monitoring Officer will be required to take this into account in deciding the next steps.

I look forward to hearing from you shortly.

Kind regards,

Mohammed Farooq
 Monitoring Officer

Mohammed Farooq

From: Cllr. Bill Etheridge [Cllr.Bill.Etheridge@dudleymbc.org.uk]
 Sent: 15 November 2017 17:52
 To: Mohammed Farooq
 Cc: Kay Gibbon
 Subject: [EXTERNAL EMAIL] Re: Strictly Private & Confidential - Complaint - Members' Code of Conduct

Sensitivity: Confidential

CAUTION: This email originated from outside of the council. Do not click links or open attachments unless you are sure the content is safe.

Good evening

There will be no apology and I stand by every word I said

I look forward to hearing from you as to the next step, which I look forward to with great interest

Regards

Bill

Sent from my iPhone

> On 15 Nov 2017, at 17:25, Mohammed Farooq [REDACTED] wrote:

>

> Dear Councillor Etheridge

>

> Further to our previous communication, please find attached the complaint from Councillor P Lowe. He alleges that you have breached the Members' Code of Conduct following the comments you made in two videos posted on Facebook after the full Council meeting on 9th October, 2017.

>

> As previously indicated, I have now met with the Independent Person (Rt Revd G Usher, Bishop of Dudley) and after consideration of your comments (a transcript of the two recordings is attached), we are of the view that prima facie there has been a breach of the Members' Code of Conduct, which necessitates a further investigation.

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> The breach of the Members' Code of Conduct includes, but is not limited to, the following standards of conduct:-

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> - Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.

>

> - Always treating people with respect, including the organisations and public I engage with and those I work alongside, and not bullying any person.

>

> - Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Council.

>

> Any investigation may identify further breaches of the Members' Code of Conduct.

>

John Austin Associates

Dudley Metropolitan Borough Council

Investigation Report

**Complaint from Councillor Peter Lowe against
Councillor Bill Etheridge**

24 January 2018

Investigation Report

Dudley Metropolitan Borough Council

Complaint by Councillor Peter Lowe against Councillor Bill Etheridge

1. Introduction

1.1 I was commissioned by Mohammed Farooq, Monitoring Officer at Dudley Borough Council to investigate a complaint from Councillor Peter Lowe against Councillor Bill Etheridge.

1.2 The complaint related to two Facebook video posts – one posted immediately after the Dudley Council meeting on 9th October 2017 - the other the following day.

1.3 Councillor Lowe alleges that both video posts are:

- Derogatory to Councillors and the Mayor
- Inflammatory in tone
- Contrary to the Nolan Principles in Public Life
- Threatening
- Disrespectful
- Not befitting the conduct of an elected official

1.4 In submitting his complaint, Councillor Lowe stated that he was doing so with the full support of the Shadow Cabinet.

2. Summary of Findings

In relation to the content of the two videos:

2.1 I find that there is evidence that Councillor Etheridge breached the Council's Code of Conduct in failing to adhere to the following standards of conduct in paragraph 3 (page F10) (summarised in part below):

- Valuing colleagues and engaging with them in an appropriate manner and one that underpins the mutual respect that is essential to local government
- Always treating people with respect
- Providing leadership through behaving in accordance with these principles when championing the interests of the community.

- 2.2 I accept Councillor Etheridge's view that his comments about the Town Hall being demolished and not caring if certain members were in it at the time were made 'tongue in cheek'. Whilst it was an ill chosen comment, I do not think it was intended as a threat.
- 2.3 I find that Councillor Etheridge showed disrespect towards the Mayor and his office and there is sufficient evidence to indicate that he breached the standards within the Code of Conduct set out in paragraph 2.1 above.

3. **Terms of Reference**

- 3.1 I was asked to conduct my investigation in accordance with Dudley Council's Standards Arrangements, which included their Members' Code of Conduct.
- 3.2 My investigation included:
- (a) listening to both Facebook tapes
 - (b) reading the transcripts
 - (c) interviewing both Councillors Lowe and Etheridge, plus Mohammed Farooq as Monitoring Officer
 - (d) writing my findings in this report
- 3.3 The complainant, the subject member and the Monitoring Officer were given the opportunity to comment on this report. I have taken their comments into account when finalising the document.

4. **Documents Reviewed**

In the course of my investigation, I reviewed the following:

- (a) Facebook videos
- (b) Typed transcripts of the video content
- (c) The Council's Standards Arrangements and Members' Code of Conduct
- (d) The Council's Procedure Rules for Council Meetings
- (e) The complaint received from Councillor Lowe.

5. **Evidence Gathering**

- 5.1 As part of my evidence gathering, I interviewed the following by telephone:
- (a) Councillor Peter Lowe (Complainant)
 - (b) Councillor Bill Etheridge (Subject Member)
 - (c) Mohammed Farooq (Monitoring Officer)

- 5.2 All three interviewees were given the opportunity to comment on the draft notes of the discussions and these comments have been taken into consideration when writing this report.

6. Evidence Gathered

- 6.1 The sources of evidence were the video posts featuring Councillor Etheridge, supported by the written transcripts, and the interviews with the complainant, the subject member and the Monitoring Officer. Underpinning this were the Council's Constitution (Part 4 - Council Procedure Rules) and the Members' Code of Conduct.

Councillor Lowe Interview

- 6.2 Councillor Lowe set out the reasons for his complaint. The first video post was on the night of the October Council meeting, the second – the day after. There was concern within the Labour Group about the tone and language used in both. Neither were befitting an elected councillor. Some members were concerned about their safety in the light of Councillor Etheridge's comments relating to the demolition of the Council House with them in it. Councillor Lowe said he submitted the complaint following consultation with Labour party members. Rather than sending a number of complaints, he had consolidated the concerns expressed to him into one, on behalf of whole of Labour group. The video posts in his view speak for themselves.
- 6.3 I reminded Councillor Lowe that Councillor Etheridge stated in the posts that free speech was suppressed at the Council meeting on 9th October. I invited him to comment.
- 6.4 Councillor Lowe felt this was just not true. He said that there is a 30-minute period allowed at the Council meeting for motions. The motions are listed on the agenda in the date order that they are received. The motion from Councillor Bayton on gender equality was listed before the UKIP motion on trees. It had been deferred from previous meetings. The Councillor Bayton motion took nearly all of the 30 minutes. Councillor Lowe said that he moved a motion that the question be put after about 27 minutes of discussion.
- 6.5 He did not agree that the UKIP motion had been suppressed. It was in fact deferred until the next meeting so it could be properly debated as allowed for within the Constitution. It was a fairly recent motion – not having been deferred from previous meetings.

- 6.6 Councillor Lowe then pointed out that that the mover of the UKIP motion withdrew it at the next meeting (so they could prioritise a motion on car parking) and Councillor Etheridge wasn't even present.
- 6.7 Councillor Lowe also didn't agree with Councillor Etheridge's view that the Labour side had filibustered at the meeting to avoid discussion on the UKIP motion. He felt that the discussion on the Councillor Bayton motion had contributions from all political parties. Any councillor could have moved that the question be now put if they had felt there had been enough discussion. He did that himself. Nobody else did.
- 6.8 He added that if the UKIP motion was so important, why was it withdrawn at the next meeting and why wasn't Councillor Etheridge present as he said he would be in his posts?
- 6.9 Councillor Lowe felt that the Mayor acted in accordance with the Constitution at the Council meeting. He said that there is a rule that if the Mayor stands, the councillor speaking sits down. He said that a member didn't sit down despite several requests to do so. The Mayor asked that he be removed from the meeting. The member continued to refuse to sit down and leave the meeting. In Councillor Lowe's view the Mayor correctly adjourned the meeting. When it resumed, the Mayor took a conciliatory approach. The member concerned was allowed to remain in the meeting but not speak. In his view, the member had shown disrespect towards the Mayor.
- 6.10 He concluded his interview by saying that this was the first time he had ever felt the need to make a formal complaint. He understands fully the 'cut and thrust' of party politics. It was healthy to have conflicting views. But the actions of Councillor Etheridge went way over and above what was acceptable. He felt the comments to be insulting and degrading. They have negative connotations for the democratic process and work against what councillors in Dudley are trying to do. This is why he has addressed the Nolan Principles within his complaint. It is not his wish to curtail debate. Councillor Etheridge's comments do not stand up to scrutiny. The motion he felt was so important was withdrawn at the next Council and he wasn't even present. Why also didn't UKIP ask for the question to be put at the October meeting?

Councillor Etheridge Interview

- 6.11 Councillor Etheridge, in his interview, confirmed that the transcripts were an accurate record of the videos. I asked if he wished to present any evidence in his defence and he replied no.

- 6.12 There is no disagreement that Councillor Etheridge posted the videos and he stands by what he said in them. He confirmed this during his interview. He did add however that he was not threatening. His comments about the demolition of the Council building were tongue in cheek. He said that he used "illustrative and passionate language" to describe the failings of the Council and its councillors to serve the community in Dudley.
- 6.13 He strongly countered any suggestion that he was inciting violence and, if that was being suggested, he said he would take counter action and seek legal advice. He would regard such suggestions as defamatory.
- 6.14 He admitted during his interview that he had no respect for the Mayor or Councillor Lowe. He stands by his comments in that regard.
- 6.15 He added that he was an elected official both in Dudley and in the European Parliament. His comments are consistent with his actions. They are deliberately disrespectful and scornful. In his view, he is representing the views of the people who voted for him.
- 6.16 Councillor Etheridge said that he posted the videos for two reasons. He felt that the goings on within the Council needed broader coverage for the citizens of Dudley. Social media was a good tool to get a message out. What occurred at the Council meeting was prejudicial to his group. Also, the actions of the Mayor at the meeting were not befitting the office. The Labour side talked out the motion that was based on egotism and virtue signalling.
- 6.17 He was very unhappy with the way the Mayor acted during the debate. He said that when the member tried to make a point of order he was told in no uncertain terms that he wasn't allowed to speak. The Mayor stood up in aggressive posture that was, in his view, more befitting a bar room brawl than a Council meeting. When UKIP members got criticism from the Labour Group, the Mayor appeared to show sympathy with them.
- 6.18 I asked Councillor Etheridge whether he thought terms in the videos such as:
- "pathetic tin pot nobodies"
 - "Socialist do-gooder bleeding heart communist rat bags"
 - "petty pinko labour left bullying bullshit"

- “crony Mayor”

were appropriate and acceptable ways of referring to fellow councillors?

He replied yes. They are he said entirely appropriate as an opinion of the councillors involved.

Monitoring Officer Interview

- 6.19 Given the difference in views between the complainant and the subject member (political and factual), I decided to interview the Monitoring Officer (MO) for an independent view in relation to the process at the Council meeting.
- 6.20 He was of the view that proper process had been followed in relation to the motions on the agenda. He confirmed Councillor Lowe's view that the Councillor Bayton motion took most of the 30 minutes allocated and that Councillor Lowe had moved that the question be now put.
- 6.21 The MO recalled that a point of order was then raised by a member arguing a potential breach of the copyright law. He argued that as the motion was based on an illegality, it was null and void. The Mayor did not accept this point of order.
- 6.22 I asked the MO about the actions of the Mayor at this point. I reminded him that Councillor Etheridge stated in the second of his posts that the Mayor told the member to shut up and sit down and stood up in a menacing manner. It was further alleged in the posts that the Mayor then tried to eject the member from the meeting.
- 6.23 He recalled that it reached a point when the Mayor did stand up as he is entitled to do. In the previous 18 months as MO, he had never seen this happen before. The member concerned persisted with his point of order. He refused to sit down. The MO then suggested to the Mayor an adjournment to consider the position. This was agreed and lasted for approximately 15 minutes. During this time the MO briefed the Mayor on the procedure to be followed. The meeting was reconvened and the Mayor moved that the member be not heard any further. The Council voted in favour. Following this, the Mayor decided that the motion had been sufficiently discussed. Due process was followed and the motion was carried.
- 6.24 In the MO's view, and from where he was sitting in the Chamber, the Mayor did not act in a menacing manner towards the member involved.

7. Evaluation of Evidence

- 7.1 Dudley Council members sign an acceptance to comply with the Code upon election.
- 7.2 The Code sets out standards of conduct. Paragraph 3 (page F10) requires members to value their colleagues and engage with them in an appropriate manner in a way that underpins mutual respect. They are also obliged to treat people with respect at all times and provide leadership through behaving in accordance with the principles in paragraph 2 of the Code.
- 7.3 There is no question that Councillor Etheridge posted the videos. They are there for all to see. He stated to me that (apart from the comment about the building being demolished) he stands by everything he said.
- 7.4 Given the fact that he is unrepentant, there is no doubt in my mind that his comments were thought through either beforehand or whilst he was making them. I accept that there may have been an element of frustration following the Council meeting. He did however have the opportunity to 'sleep on it' but he carried on in the same way the following day. He admitted (paragraph 6.15 above) that his comments were deliberately disrespectful and scornful.
- 7.5 Councillor Etheridge is fully entitled to use social media to communicate with the Dudley community and to use this forum for political purposes. In politics, passions run high and councillors are entitled to be robust in criticising opponents, sometimes in colourful language. The Code is not meant to be a bar to political debate but there is a line between challenging ideas/criticising opponents and descending into disrespectful abuse. On this occasion, Councillor Etheridge in my view crossed that line.
- 7.6 I therefore agree with the complainant that the actions of Councillor Etheridge went way over and above what is acceptable. Such comments such as:
- "pathetic tin pot nobodies'
 - "Socialist do-gooder bleeding heart communist rat bags"
 - "petty pinko labour left bullying bullshit"
 - "crony Mayor in his Dick Whittington outfit"
 - 'Bleeding heart, do-gooding utter bullshit speeches"

- “pinko, disgusting state slaves”
- “..morons...”
- “..this procession of imbeciles..”
- “..imbecile”

are in my opinion derogatory, inflammatory, disrespectful, contrary to the principles within the Council's Code of Conduct and not befitting a Councillor. Members are fully entitled to raise concerns about the process at Council meetings and to complain to the Monitoring Officer or through the Complaints Procedure if they feel they are not being treated fairly by the Mayor. But this should be done responsibly, respectfully and within the procedures agreed by the whole Council. By using those words in relation to his fellow councillors (and confirming at interview that they were deliberate and that he stood by them), Councillor Etheridge in my opinion failed to value his colleagues and treat them with respect. I find therefore that there is evidence that he breached the Council's Code of Conduct in failing to adhere to the following standards of conduct in paragraph 3:

- Valuing colleagues and engaging with them in an appropriate manner and one that underpins the mutual respect that is essential to local government
- Always treating people with respect
- Providing leadership through behaving in accordance with these principles when championing the interests of the community.

7.7 In relation to his comment about the building being demolished, I am prepared to accept Councillor Etheridge's view that he said it tongue in cheek. Whilst it was an ill chosen comment, I do not think it was intended as a threat in any way.

7.8 Councillor Etheridge made particular comments about the Mayor and his dealings with the member who made the point of order. The Council's Constitution (Page D16 – paragraph 14.12) states that the ruling of the Mayor in relation to points of order will be final. Based on the evidence from the Monitoring Officer and my experience of attending Council meetings over many years, it is my view that the Mayor took advice and acted properly for the good conduct of the meeting. He was quite within his rights to stand up to address the member, as provided for within paragraph 20.2 on page D18 of the Constitution. The same rule states that when the Mayor stands, any member speaking must stop and sit down. It is my understanding that the member failed to adhere to this rule. Procedure rule 20.3 on

page D18 also allows the Council to agree that a member be not allowed to speak again. Whilst that is not within the scope of my investigation, I present it here to show that the Mayor and the Council were in my view acting in accordance with the Constitution, contrary to Councillor Etheridge's claim. As chair of the Council meeting, a Mayor has to deal with difficult situations, and members from both sides may not necessarily agree with their procedural decisions. For the good conduct of Council meetings and for local democracy more widely, it is essential that the role and office of Mayor is respected by all councillors. Councillor Etheridge's comments, in my view failed to show this respect. This is further evidence to indicate that there has been a breach of the standards set out in paragraph 7.6 above.

Mohammed Farooq

From: Mohammed Farooq
Sent: 06 February 2018 18:10
To: Cllr. Bill Etheridge
Subject: Strictly Private & Confidential - Investigation Report - Members' Code of Conduct



Cllr Etheridge
final report.pd...

Strictly Private & Confidential

Dear Cllr Etheridge,

As you are aware I asked Mr John Austin to investigate a complaint against yourself from Cllr Pete Lowe.

Mr Austin has now produced his final report, and I attach a copy for your consideration.

The Investigating Officer has concluded that there is evidence of a failure to comply with the Council's Code of Conduct.

The Council's Investigations Procedure states that if the investigation report finds a breach or potential breach of the Members' Code of Conduct I as the Monitoring Officer will write to the parties confirming this and propose one of the two following options:

- (1) Informal Resolution following consultation with an Independent Person.
- (2) Referral for a local hearing by the Standards Sub-Committee.

Before I consider the hearing route I am of the view that I should offer you the informal resolution route by way of a full and unreserved apology in words to be agreed. The apology would be made using the same media that you used to make the original comments (ie: Facebook etc).

You will recall I offered you this option in November 2017, prior to the formal investigation, however, at the time you stated that there would be no apology and that you stood by every word you had said.

I look forward to hearing from you please.

Kind regards,

Mohammed Farooq
Monitoring Officer
Dudley MBC

Mohammed Farooq

From: Cllr. Bill Etheridge [Cllr.Bill.Etheridge@dudleymbc.org.uk]
Sent: 06 February 2018 18:20
To: Mohammed Farooq
Cc: Cllr. Paul Brothwood
Subject: [EXTERNAL EMAIL] Re: Strictly Private & Confidential - Investigation Report - Members' Code of Conduct

CAUTION: This email originated from outside of the council. Do not click links or open attachments unless you are sure the content is safe.

Dear sir

No apology will be forthcoming and I stand by my remarks

I look forward to pursuing this matter every step of the way and at every step of the way reiterating my utter contempt for the mayor and the Labour Party


I look forward to your reply

I am copying in cllr Brothwood as my group leader

Regards

Bill Etheridge

Sent from my iPhone

On 6 Feb 2018, at 19:10, Mohammed Farooq < wrote:

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2. Referral for a local hearing by the Standards Sub-Committee.

Mohammed Farooq

From: Mohammed Farooq
Sent: 07 February 2018 17:35
To: Cllr. Bill Etheridge
Cc: Louise Baugh
Subject: Re: Strictly Private & Confidential - Investigation Report - Members' Code of Conduct

Dear Cllr Etheridge,

Further to your email below, the matter will now be referred for a hearing by the Standards Sub-Committee.

I would be grateful please if you would keep the whole of the day on Tuesday 27th February 2018 free in your diary, and I will be in touch shortly with further details.

You are entitled to have a representative.

If I can be of any further assistance please let me know.

Kind regards,

Mohammed Farooq
Monitoring Officer
Dudley MBC

From: Cllr. Bill Etheridge [<mailto:Cllr.Bill.Etheridge@dudleymbc.org.uk>]
Sent: 06 February 2018 18:20
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Sent from my iPhone

On 6 Feb 2018, at 19:10, Mohammed Farooq <[redacted]> wrote:

Mohammed Farooq

From: Cllr. Bill Etheridge [Cllr.Bill.Etheridge@dudleymbc.org.uk]
Sent: 07 February 2018 18:22
To: Mohammed Farooq
Cc: Louise Baugh; Cllr. Paul Brothwood
Subject: [EXTERNAL EMAIL] Re: Strictly Private & Confidential - Investigation Report - Members' Code of Conduct

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Dear sir

As usual I will be copying my group leader into my reply

I will not be keeping the whole of any Day free for a hearing. I require a precise time for the meeting so that I can arrange my workload accordingly should I decide to attend and inform the local media of events so we can have full transparency of this kangaroo court.

I still await your reply as to the costs incurred during this exercise so far.

Regards

Bill Etheridge

Sent from my iPhone

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Sent: 06 February 2018 18:20
To: Mohammed Farooq
Cc: Cllr. Paul Brothwood
Subject: [EXTERNAL EMAIL] Re: Strictly Private & Confidential - Investigation Report - Members' Code of Conduct

Mohammed Farooq

From: Mohammed Farooq
Sent: 07 February 2018 19:55
To: Cllr. Bill Etheridge
Cc: Louise Baugh
Subject: Strictly Private & Confidential - Investigation Report - Members' Code of Conduct

Dear Cllr Etheridge,

You will appreciate that I am not in a position to inform you how long the hearing will last, however, it will commence at 10am. I will be in touch shortly with further details.

As I have previously indicated I shall provide details of the costs incurred at the end of the investigation.

Kind regards,

Mohammed Farooq
 Monitoring Officer
 Dudley MBC

----- Original message -----

From: "Cllr. Bill Etheridge" <Cllr.Bill.Etheridge@dudleymbc.org.uk>
Date: 07/02/2018 18:22 (GMT+00:00)
To: Mohammed Farooq <[REDACTED]>
Cc: Louise Baugh <[REDACTED]> Cllr. Paul Brothwood" <Cllr.Paul.Brothwood@dudleymbc.org.uk>
Subject: [EXTERNAL EMAIL] Re: Strictly Private & Confidential - Investigation Report - Members' Code of Conduct

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Bill Etheridge

Sent from my iPhone

On 7 Feb 2018, at 18:35, Mohammed Farooq <[REDACTED]> wrote:

Dear Cllr Etheridge,

Mohammed Farooq

From: Cllr. Bill Etheridge [Cllr.Bill.Etheridge@dudleymbc.org.uk]
Sent: 09 February 2018 11:39
To: Mohammed Farooq
Cc: Louise Baugh; Cllr. Paul Brothwood
Subject: [EXTERNAL EMAIL] Re: Strictly Private & Confidential - Investigation Report - Members' Code of Conduct

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Dear sir

On reflection I shall not be attending any disciplinary event for the following reasons:

- 1 - I believe any Councillors in attendance will have a conflict of interests as they are all supporters of the institutions I have criticised
- 2 - I am not prepared to contribute to any further waste of taxpayers money
- 3 - I do not accept the legitimacy of any proceedings aimed at stifling free speech

I await further response from you and would like to make you aware that any effort to block me from meetings or otherwise sanction me for expressing my views will be met with stern and very public resistance.

Regards

Bill Etheridge

Sent from my iPhone

On 7 Feb 2018, at 19:55, Mohammed Farooq <[REDACTED]> wrote:

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Kind regards,

Mohammed Farooq
Monitoring Officer
Dudley MBC

----- Original message -----

From: "Cllr. Bill Etheridge" <Cllr.Bill.Etheridge@dudleymbc.org.uk>
Date: 07/02/2018 18:22 (GMT+00:00)

Mohammed Farooq

From: Mohammed Farooq
Sent: 12 February 2018 16:57
To: Cllr. Bill Etheridge
Cc: Cllr. Paul Brothwood; Louise Baugh
Subject: Strictly Private & Confidential - Investigation Report - Members' Code of Conduct

Dear Cllr Etheridge,

Following our exchange of emails last week, and my subsequent conversation with Cllr Brothwood last Thursday in respect of a suitable date, I had been in the process of arranging a hearing.

I now note the contents of your email below and the fact that you will not be attending any hearing. Therefore, the hearing will proceed in your absence and I shall, of course, bring your email to the attention of the Standards Sub-Committee. Although the Standards Sub-Committee is quasi judicial, it has no powers to compel your attendance. You will be forwarded all the relevant documents that are disclosed at the hearing.

Whilst not in a position to know what the final decision of the Standards Sub-Committee will be, please be assured that there will be no attempt to prohibit you from attending any meetings of the Council.

As you will not be in attendance, the hearing will revert to the original date of Tuesday 27th February 2018, at 10.30am in the Council House. Further details will be provided shortly.

Kind regards,

Mohammed Farooq
 Monitoring Officer
 Dudley MBC

From: Cllr. Bill Etheridge [<mailto:Cllr.Bill.Etheridge@dudleymbc.org.uk>]
Sent: 09 February 2018 11:39
To: Mohammed Farooq
Cc: Louise Baugh; Cllr. Paul Brothwood
Subject: [EXTERNAL EMAIL] Re: Strictly Private & Confidential - Investigation Report - Members' Code of Conduct

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Arrangements for Dealing with Standards Allegations under the Localism Act 2011

1. Context

The Localism Act 2011 requires the Council to adopt “arrangements” to deal with allegations that a Member or co-opted Member has failed to comply with the local Members’ Code of Conduct. These arrangements set out how any such complaints or allegations will be investigated and dealt with.

The Council has appointed Independent Person(s). An Independent Persons’ views must be sought before a decision is taken on any allegation that the Monitoring Officer has decided shall be investigated. An Independent Persons’ views can be sought by the Council at any other stage, or by a Member against whom an allegation has been made.

2. The Code of Conduct

The Council has adopted a Members’ Code of Conduct, which is attached as Annex 1. The document is also available on the website and from the Council on request.

3. Making a complaint

It is a requirement of the Localism Act 2011 that any complaint or allegation that a Member has failed to comply with the Council’s code of conduct must be in writing.

If you wish to make a complaint against a Member or co-opted Member, you will need to complete our complaint form, which is available on the website and on request from the Council. You should send the completed form to:-

The Monitoring Officer
 Dudley Metropolitan Borough Council
 The Council House, Priory Road, Dudley DY1 1HF
 E-mail: mohammed.farooq@dudley.gov.uk
 Telephone: 01384 815301

The Monitoring Officer has statutory responsibility for maintaining the register of Members’ interests and is responsible for administering the system in respect of complaints about the conduct of Members.

The following points should be noted before you make a complaint:

- You will need to provide us with your name and a contact address or email address, so that the Monitoring Officer can acknowledge receipt of your complaint and keep you informed of its progress.
- The Council will not investigate anonymous complaints, unless there is a clear public interest in doing so.
- There is a presumption that a complainant will not be allowed to claim confidentiality unless exceptional circumstances exist. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.

4. **Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and take a decision as to whether it merits formal investigation. He may consult an Independent Person as appropriate. Where the Monitoring Officer has taken a decision, he will inform you of this and the reasons for it.

If the Monitoring Officer requires additional information before coming to a decision, he may ask you to provide such information. He may also request information from the Member against whom your complaint is directed.

The Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action. Where the Member or the Council makes a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies potential criminal conduct or breach of other regulations by any person, the Monitoring Officer has the power to inform the Police and/or any other regulatory agencies.

5. **How is the investigation conducted?**

The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Annex 2.

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak with you to understand the nature of your complaint. It will also allow you to explain your understanding of events and suggest what documents the Investigating Officer needs to see, and whom the Investigating Officer needs

to interview. However the conduct of the investigation is in the total discretion of the Investigating Officer.

The Investigating Officer will normally write to the Member against whom you have complained and provide him/her with a copy of your complaint. He/she will ask the Member to provide his/her explanation of events, and to identify what documents if any he/she needs to see, and whom he/she needs to interview.

In exceptional cases, where it is appropriate to keep your identity confidential, or where disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently. The Monitoring Officer shall keep the issue of confidentiality under review throughout the complaints process.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the Member concerned. This will allow you and the Member an opportunity to identify any matter in the draft report that you disagree with, or which you consider requires more consideration.

Having received and taken into account any comments on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6. **What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and consult an Independent Person as necessary. If he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned, notifying you that he is satisfied that no further action is required, providing you both with a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly or is insufficient to determine the complaint, he may ask the Investigating Officer to reconsider his/her report.

7. **What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and either seek local resolution or refer the matter for a local hearing before the Standards Sub-Committee.

8. **Local Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with an Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution that also helps to ensure higher

standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action. If the Member complies with the suggested resolution, the Monitoring Officer will take no further action.

9. **Local Hearing**

If the Monitoring Officer considers that local resolution is not appropriate, or the Member concerned is not prepared to undertake any proposed remedial action (such as giving an apology), then the Monitoring Officer will refer the Investigating Officer's report to the Standards Sub-Committee. The Sub-Committee will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action.

The Council has agreed a procedure for local hearings, which is attached as Annex 3.

The Monitoring Officer will conduct a "pre-hearing process", requiring the Member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing. The Chair of the Sub-Committee may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The Member will have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-Committee, with the benefit of advice from an Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding and the Sub-Committee will then consider what action, if any, should be taken as a result of the Member's failure to comply with the Code of Conduct.

In doing this, the Sub-Committee will give the Member an opportunity to make representations and will consult an Independent Person, but will then decide what action, if any, to take in respect of the matter.

10. **What action can the Sub-Committee take where a Member has failed to comply with the Code of Conduct?**

The Council has given delegated powers to the Standards Sub-Committee to determine the appropriate course of action in respect of any complaints heard.

The action taken by the Sub-Committee, following a finding of a Member breach of the Code of Conduct, must be proportionate taking account of the facts and circumstances of each individual case. The Sub-Committee has no power to suspend or disqualify the Member from office or to withdraw Members' allowances.

The Sub-Committee may consider the following (although this is not an exhaustive list):

- Reporting the findings to Council.
- Recommending to the Member's Group Leader that the Member in question be removed from the Cabinet, any or all Committees or Sub-Committees of the Council or Other Bodies subject to statutory and constitutional requirements.
- Formal letter from the Council or the Chair of the Audit and Standards Committee to the Member in question.
- Formal censure through a motion.
- Withdrawal of facilities (eg: ICT).
- Arrange training for the Member.

11. **What happens at the end of the hearing?**

At the end of the hearing, the Chair will announce the decision to all parties present along with any other actions that the Sub-Committee decides to take.

As soon as reasonably practicable, the Monitoring Officer will send a copy of the decision letter to you and to the Member concerned. The minutes of the Sub-Committee will be placed on the Council's website and submitted to the next convenient ordinary meeting of the Council for information.

12. **Appeals**

There is no right of appeal for you as complainant or for the Member against any of the decisions made by the Monitoring Officer or by the Sub-Committee in accordance with these arrangements.

If you feel that the Council has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Annex 1: Dudley MBC - Members' Code of Conduct

Annex 2: Procedure for Investigations

Annex 3: Procedure for Local Hearings



Members' Code of Conduct

1. Application of the Code

As a Member or Co-opted Member of Dudley Metropolitan Borough Council, I acknowledge that this Code of Conduct applies whenever I am acting in my capacity as a Member, including

- At formal meetings of the Council, the Cabinet, Committees, Sub-Committees and Working Groups.
- When acting as a representative of the Council.
- In taking any decisions as a Cabinet Member or Ward Councillor.
- In discharging functions as a Ward Councillor.
- At briefing meetings with Officers.
- At site visits.
- When corresponding with the Council other than in a private capacity.

2. General Principles

As a Member or Co-opted Member of Dudley Metropolitan Borough Council, I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity, I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this Council.

The seven principles of public life

Principle	Revised Description
Preamble	The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, Non Departmental Public Bodies, and in the health, education, social and care services. All public office-holders are both servants of the public and

stewards of public resources. The principles also have application to all those in other sectors delivering public services.

Selflessness	Holders of public office should act solely in terms of the public interest.
Integrity	Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
Objectivity	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
Accountability	Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
Openness	Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing
Honesty	Holders of public office should be truthful.
Leadership	Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

3. **Standards of Conduct**

As a Member of Dudley Metropolitan Borough Council my conduct will address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework,

the interests of the borough or the good governance of the Council in a proper manner.

- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a Member or Co-opted Member of this Council.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this Council's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other Members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this Council's policies, protocols and procedures, including on the use of the Council's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside, and not bullying any person.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Council.
- Respecting the confidentiality of information received as a Member by:
 - not disclosing confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and
 - not obstructing third parties' legal rights to access information.

4. **Members' Interests**

The Localism Act 2011 provides for registration and disclosure of interests and in Dudley Metropolitan Borough Council this will be done as follows:

Disclosable Pecuniary Interests

Members must:

- Comply with the statutory requirement to register, disclose and withdraw from participating in respect of any matter in which they have a disclosable pecuniary interest.
- Ensure that the register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any change(s) in respect of disclosable pecuniary interests.
- Make a verbal declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.

“Meeting” means any meeting organised by or on behalf of the Council, including:

- Any meeting of the Council, the Cabinet or any Committee, Sub-Committee or Working Group.
- In taking a decision as an individual Ward Member or Cabinet Member.
- Any briefing with officers.
- Any site visit associated with any business of the Council.

Other Interests

In addition to the requirements above, if Members attend a meeting at which any item of business is to be considered and you are aware that you have a “non-disclosable pecuniary interest or a non-pecuniary interest” in that item, you must make a verbal declaration of the existence and nature of the interest at or before the consideration of the item or as soon as the interest becomes apparent.

You have a “non-disclosable pecuniary interest or a non-pecuniary interest” in an item of business where:-

- A decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax Payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the Council’s administrative area; or
- It relates to or is likely to affect any of the interests set out in the form attached to this Code, but in respect of a member of your family (other than a relevant person referred to on the form) or a person with whom you have a close association;

and that interest is not a disclosable pecuniary interest.

It is the responsibility of Members to disclose interests and to withdraw from participating in meetings as and when necessary in accordance with both the requirements of this Code and the Council's Constitution.

Sensitive interests

"Sensitive interests" mean those that contain information, the details of which if disclosed publicly, could lead to a Member or a person connected with a Member, being subjected to violence or intimidation.

Where a Member considers that the details of a disclosable pecuniary interest contains sensitive information, and the Monitoring Officer agrees, the Monitoring Officer shall not include details of the interest on the public version of the register, but may include a statement that an interest exists but the details are withheld.

Dispensations

The Council may grant a dispensation, but only in limited circumstances, to enable a Member to participate and vote on a matter in which they have a disclosable pecuniary interest.

Members do not have disclosable pecuniary interests in any business of the Council where that business relates to functions of the Council in respect of-

- housing, where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease;
- school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full-time education, or are a parent governor of the school, unless it relates particularly to the school which the child attends;
- statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- an allowance, payment or indemnity given to Members;
- any ceremonial honour given to Members; and
- setting the Council Tax or a precept under the Local Government Finance Act 1992 as amended.

Gifts and Hospitality

Members must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 that has been accepted from any person or body other than the Council. The Monitoring Officer will include the notification in the public register.



Procedure for Standards Sub-Committee Meetings

1. **Interpretation**

'Subject member' means the Member of the Council who is the subject of the allegation being considered by the Sub-Committee, unless stated otherwise. It also includes the Member's nominated representative.

'Investigator' means the Monitoring Officer or his nominated representative.

'Independent Person' means a person appointed to undertake this role by the Council pursuant to the provisions of the Localism Act 2011.

2. **Representation**

The subject Member may be represented or accompanied during the meeting by a person of their choice.

3. **Advice**

The Sub-Committee may take advice, in private if necessary, from officers at any time during the hearing or while they are considering the outcome. The substance of any advice given to the Sub-Committee should be shared with the subject Member and the investigator if they are present.

4. **Independent Person**

The Independent Person involved in the case shall be entitled to attend the meeting to give advice and views to the Sub-Committee at any stage of this procedure.

5. **Setting the scene**

After everyone has been formally introduced, the Chair should explain how the Sub-Committee is going to run the hearing.

6. **Exclusion of the Public and Press**

The Sub-Committee will consider whether the meeting should be considered in public or private session under the provisions of the Local Government Act 1972.

7. **Preliminary Procedural Issues**

The Sub-Committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

8. **Making findings of fact**

After dealing with any preliminary issues, the Sub-Committee should then move on to consider whether there are any significant disagreements about the facts contained in the investigator's report.

If there is no disagreement about the facts, the Sub-Committee can move onto the next stage of the hearing.

If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Sub-Committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The Sub-Committee may give the subject Member an opportunity to challenge any evidence put forward by any witness called by the investigator.

The subject Member should then have the opportunity to make representations to support their version of the facts and, with the Sub-Committee's permission, to call any necessary witnesses to give evidence.

At any time, the Sub-Committee may question any of the people involved or any witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the Member.

If the subject Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the Sub-Committee will consider whether it would be in the public interest to continue in their absence.

After considering the Member's explanation for not raising the issue at an earlier stage, the Sub-Committee may then:

- continue with the hearing, relying on the information in the investigator's report;
- allow the subject member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary;
- postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already.

The Sub-Committee will usually adjourn to consider the representations and evidence in private.

The Chair will announce the Sub-Committee's findings of fact.

9. **Did the subject Member fail to follow the Code of Conduct?**

The Sub-Committee then needs to consider whether, based on the facts it has found, the subject Member has failed to follow the Members' Code of Conduct.

The subject Member should be invited to give relevant reasons why the Sub-Committee should decide that he/she have not failed to follow the Code.

The Sub-Committee should then consider any verbal or written representations from the investigator.

The Sub-Committee may, at any time, question anyone involved on any point they raise on their representations.

The subject Member should be invited to make any final relevant points.

The Sub-Committee will then adjourn to consider the representations.

The Chair will announce the Sub-Committee's decision as to whether the subject Member has failed to follow the Code.

10. **If the subject Member has not failed to follow the Code of Conduct**

If the Sub-Committee decides that the subject Member has not failed to follow the Code, the Sub-Committee can move on to consider whether it should make any recommendations to the Council.

11. **If the subject Member has failed to follow the Code of Conduct**

If the Sub-Committee decides that the subject Member has failed to follow the Code, it will consider any verbal or written representations from the investigator and the subject Member as to:-

- Whether the Sub-Committee should take any action.
- What form that action should take.

The Sub-Committee may question all parties and take any advice, to make sure they have the information they need in order to make an informed decision.

The Sub-Committee will then deliberate in private to consider whether to take any action in respect of the subject Member and, if so, what action to take.

The Sub-Committee may also consider whether it should make any other recommendations to the Council.

The Chair will announce the Sub-Committee's decision.

12. **The written decision**

The Sub-Committee will announce its decision on the day. The Monitoring Officer will arrange for a decision letter to be sent to all parties as soon as possible after the meeting to confirm the decision.