

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Interim Chief Executive
Adrian Stanfield LL.B (Hons)

Gibson Building
Gibson Drive
Kings Hill, West Malling
Kent ME19 4LZ
West Malling (01732) 844522

NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
committee.services@tmbc.gov.uk

28 May 2024

To: MEMBERS OF THE JOINT STANDARDS COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Joint Standards Committee to be held in the Council Chamber, Gibson Drive, Kings Hill on Wednesday, 5th June, 2024 commencing at 7.30 pm **(or on the rising of a Member Training Session, whichever is later)**.

Members of the Committee are required to attend in person. Other Members may attend in person or participate online via MS Teams.

Information on how to observe the meeting will be published on the Council's website.

Yours faithfully

ADRIAN STANFIELD

Interim Chief Executive

A G E N D A

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PART 1 - PUBLIC

2. Apologies for Absence
3. Notification of Substitute Members 9 - 10
4. Declarations of Interest 11 - 12

Members are reminded of their obligation under the Council's Code of Conduct to disclose any Disclosable Pecuniary Interests and Other Significant Interests in any matter(s) to be considered or being considered at the meeting. These are explained in the Code of Conduct on the Council's website at [Code of conduct for members – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tmbc.gov.uk/code-of-conduct-for-members).

Members in any doubt about such declarations are advised to contact Legal or Democratic Services in advance of the meeting.

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To confirm as a correct record the Minutes of the meeting of the Joint Standards Committee held on 12 July 2023

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To receive confirmation of the Parish/Town Council representatives for the Joint Standards Committee and endorse allocation of voting rights for the period 2024-2025.

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This report provides an update on complaints made to the Monitoring Officer that a Member may have failed to comply with their authority's Code of Conduct.

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Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

Matters for consideration in Private

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The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

PART 2 - PRIVATE

10. Urgent Items

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Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr D A S Davis (Chair)
Cllr Mrs S Bell (Vice-Chair)

Cllr K Barton
Cllr A G Bennison
Cllr G C Bridge
Cllr Mrs T Dean
Cllr J R S Lark

Cllr B A Parry
Cllr M R Rhodes
Cllr R V Roud
Cllr K B Tanner

Parish and Town Representatives:

Mrs C Short
Mr A Sullivan
Mr I Simpson
Mr B Stead
Mr N Newman
Mr M Williams
Mr O Baldock
Mr A Petty
Mrs W Palmer
Mr M Carboni
Prof M McKinlay
Ms K Mordecai-Wolfe
Mr D Gaunt
Mr D Beach

Addington
Aylesford
Borough Green
Burham
Ditton
East Peckham
Hadlow
Kings Hill
Platt
Plaxtol
Ryarsh
Snodland
Trottscliffe
Wrotham

Mr D Mercier

Independent Person

GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

- (1) Most of the Borough Council meetings are livestreamed, unless there is exempt or confidential business being discussed, giving residents the opportunity to see decision making in action. These can be watched via our YouTube channel. When it is not possible to livestream meetings they are recorded and uploaded as soon as possible:

<https://www.youtube.com/channel/UCPp-IJISNgoF-ugSzxjAPfw/featured>

- (2) There are no fire drills planned during the time a meeting is being held. For the benefit of those in the meeting room, the fire alarm is a long continuous bell and the exits are via the doors used to enter the room. An officer on site will lead any evacuation.
- (3) Should you need this agenda or any of the reports in a different format, or have any other queries concerning the meeting, please contact Democratic Services on committee.services@tmbc.gov.uk in the first instance.

Attendance:

- Members of the Committee are required to attend in person and be present in the meeting room. Only these Members are able to move/ second or amend motions, and vote.
- Other Members of the Council can join via MS Teams and can take part in any discussion and ask questions, when invited to do so by the Chair, but cannot move/ second or amend motions or vote on any matters. Members participating remotely are reminded that this does not count towards their formal committee attendance.
- Occasionally, Members of the Committee are unable to attend in person and may join via MS Teams in the same way as other Members. However, they are unable to move/ second or amend motions or vote on any matters if they are not present in the meeting room. As with other Members joining via MS Teams, this does not count towards their formal committee attendance.
- Officers can participate in person or online.

- Members of the public addressing an Area Planning Committee should attend in person. However, arrangements to participate online can be considered in certain circumstances. Please contact committee.services@tmbc.gov.uk for further information.

Before formal proceedings start there will be a sound check of Members/Officers in the room. This is done as a roll call and confirms attendance of voting Members.

Ground Rules:

The meeting will operate under the following ground rules:

- Members in the Chamber should indicate to speak in the usual way and use the fixed microphones in front of them. These need to be switched on when speaking or comments will not be heard by those participating online. Please switch off microphones when not speaking.
- If there any technical issues the meeting will be adjourned to try and rectify them. If this is not possible there are a number of options that can be taken to enable the meeting to continue. These will be explained if it becomes necessary.

For those Members participating online:

- please request to speak using the 'chat or hand raised function';
- please turn off cameras and microphones when not speaking;
- please do not use the 'chat function' for other matters as comments can be seen by all;
- Members may wish to blur the background on their camera using the facility on Microsoft teams.
- Please avoid distractions and general chat if not addressing the meeting
- Please remember to turn off or silence mobile phones

Voting:

Voting may be undertaken by way of a roll call and each Member should verbally respond For, Against, Abstain. The vote will be noted and announced by the Democratic Services Officer.

Alternatively, votes may be taken by general affirmation if it seems that there is agreement amongst Members. The Chairman will announce the outcome of the vote for those participating and viewing online.

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Joint Standards Committee

	Conservative	Liberal Democratic	Green	Ind. Kent Alliance	Labour
1	Robin Betts	Bill Banks	Lee Athwal		Paul Hickmott
2	Matt Boughton	Tim Bishop	Anna Cope		Wayne Mallard
3	Martin Coffin	James Clokey	George Hines		
4	Des Keers	Frani Hoskins	Mark Hood		
5	Colin Williams	Michelle Tatton	Robert Oliver		

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Declarations of interest

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TONBRIDGE AND MALLING BOROUGH COUNCIL

JOINT STANDARDS COMMITTEE

MINUTES

Wednesday, 12th July, 2023

Present: Cllr D A S Davis (Chair), Cllr K Barton, Cllr A G Bennison, Cllr G C Bridge, Cllr S M Hammond, Cllr B A Parry, Cllr K B Tanner, Cllr C J Williams, Cllr M D Boughton (substitute) and Cllr J Clokey (substitute), Mr B Stead (Burham Parish Council), Mr N Newman (Ditton Parish Council), Mr O Baldock (Hadlow Parish Council), Mrs W Palmer (Platt Parish Council), Mr M Carboni (Plaxtol Parish Council), and Prof M McKinlay (Ryarsh Parish Council)

In attendance: Borough Councillors G B Hines, M A J Hood and W E Palmer were also present pursuant to Council Procedure Rule No 15.21.

Mr I Craig (Aylesford Parish Council) was also in attendance as a training opportunity.

Apologies for absence were received from Borough Councillors Mrs S Bell (Vice-Chair), Mrs T Dean and R V Roud and from Wrotham Parish Council.

PART 1 - PUBLIC

ST 23/1 NOTIFICATION OF SUBSTITUTE MEMBERS

Notification of substitute Members were recorded as set out below:

- Councillor J Clokey substituted for Councillor R Roud
- Councillor M Boughton substituted for Councillor S Bell

In accordance with Council Procedure Rules 17.5 to 17.9 these Councillors had the same rights as the ordinary member of the committee for whom they were substituting.

ST 23/2 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct.

ST 23/3 MINUTES

RESOLVED: That the Minutes of the meeting of the Joint Standards Committee held on 8 June 2022 be approved as a correct record and signed by the Chairman.

MATTERS FOR RECOMMENDATION TO THE COUNCIL**ST 23/4 REVIEW OF ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS**

Following Council's approval of the changes to the Borough Council's adopted Code of Conduct on 27 April 2022 in light of revisions to the Model Code of Conduct produced by the Local Government Association, the report outlined the suggested changes to the Borough Council's adopted arrangements, which set out the process for handling complaints against Borough/ Parish/ Town Councillors under the Kent Code, and sought Members' approval to recommend them to Council for adoption.

The revised Arrangements were set out at Annex 1 and the principal changes were summarised at 1.2.1 of the report. It was noted that the Borough Council was not obliged to accept the changes proposed by Kent Secretaries.

Members welcomed the proposed revisions to the existing arrangements for dealing with Code of Conduct complaints and had due regard to the legal implications, risk assessment and equality impact assessment arising from these changes.

RECOMMENDED*: That

- (1) the revised Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011, attached at Annex 1, be adopted.

***Referred to Council**

MATTERS FOR CONSIDERATION IN PRIVATE**ST 23/5 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 7.57 pm
having commenced at 7.45 pm

TONBRIDGE & MALLING BOROUGH COUNCIL

JOINT STANDARDS COMMITTEE

05 June 2024

Report of the Interim Chief Executive

Part 1- Public

Delegated

1 PARISH/TOWN REPRESENTATIVES AND VOTING ALLOCATIONS

1.1 Introduction

At the meeting of the Parish Partnership Panel held on 9 November 2023, consideration was given to a proposal to introduce voting allocations for parish and town representatives.

1.1.1 The report of the then Director of Central Services (attached at Annex A) confirmed parish/town representatives for the Joint Standards Committee and allocated voting rights for the period 2024-2026.

1.1.2 The Panel noted the revised 'pool' of parish and town council representatives and the voting allocations for 2024-2026 (as set out in Annex 1) to be endorsed by the Joint Standards Committee at its first meeting in 2024.

1.1.3 It was confirmed that not being assigned voting rights didn't prevent parish reps from participating in meetings of the Joint Standards Committee but removed confusion around voting.

1.1.4 Minute Number PPP 23/28 is set out in Annex 2 for completeness.

1.2 Legal Implications

1.2.1 The matters raised in this report are considered to routine, uncontroversial or not legally complex and a legal opinion has not been sought on these proposals.

1.2.2 However, the Chair of the Joint Standards Committee and the then Monitoring Officer were consulted upon the proposals.

1.3 Financial and Value for Money Considerations

1.3.1 N/A

1.4 Risk Assessment

- 1.4.1 Whilst there were no significant risks identified it was hoped that the proposed voting allocations would remove potential confusion around which parish/town councils could vote at particular meetings.

1.5 Equality Impact Assessment

- 1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.6 Policy Considerations

- 1.6.1 Business Continuity/Resilience

1.7 Recommendations

The Committee is asked to

- 1.7.1 note the revised 'pool' of parish and town council representatives; and
- 1.7.2 endorse the voting allocations for 2024-2026 (as set out in Annex 1) and summarised below:

- 2024/2025 = representatives of Burham, Ditton, Hadlow, Platt, Plaxtol and Ryarsh;
- 2025/26 = representatives of Addington, Aylesford, Borough Green, East Peckham, Kings Hill and Trottiscliffe; and
- 2026/27 = representatives of Snodland, Wrotham and 4 vacancies

Background papers:

Nil

contact: Allison Parris
Principal Democratic Services
Officer

Adrian Stanfield
Interim Chief Executive

TONBRIDGE & MALLING BOROUGH COUNCIL**PARISH PARTNERSHIP PANEL****09 November 2023****Report of the Principal Democratic Services Officer****Part 1- Public****Matters For Information****1 JOINT STANDARDS COMMITTEE – PARISH/TOWN REPRESENTATIVES AND VOTING ALLOCATIONS**

Following consultation with parish and town councils, this report confirms representatives for the Joint Standards Committee and allocates voting rights for the period 2024-2025.

1.1 Background

- 1.1.1 At the previous meeting of the Parish Partnership Panel, Members were advised that a review of the contact information for parish/town council representatives held by Democratic Services was being undertaken.
- 1.1.2 The opportunity was also being taken to review the 'pool' of representatives and to formalise voting allocations to help facilitate meetings more effectively and avoid confusion.
- 1.1.3 Members were reminded that when the Joint Standards Committee was established in 2013 there was a canvas to see which parishes wanted to participate. These responses then formed a 'pool' of 15 representatives who could attend meetings of the Committee and be eligible to participate in Standards Hearings. Out of these 15, there should be 6 voting parish members as recommended in 2013.
- 1.1.4 In the past, voting rights have been assigned on an ad hoc basis on a first come first served basis which sometimes created confusion as it was not always clear who was eligible to vote on matters of business.
- 1.1.5 There was no objection expressed at the meeting to this approach and the Kent Association of Local Councils who had also been consulted with were supportive of the proposal.

1.2 Outcome of Review

- 1.2.1 Parish and Town Councils who were interested in joining the 'pool' had confirmed details with Democratic Services by Friday 29 September and the number of participating representatives was 14 (down from 15) as set out in Annex 1.
- 1.2.2 From this 'pool', voting rights for 2024 and 2025 had been allocated based on previous attendance as set out in Annex 1.
- 1.2.3 It was confirmed that not being assigned voting rights didn't prevent parish reps from participating in meetings of the Joint Standards Committee but removed confusion around voting.

1.3 Legal Implications

- 1.3.1 The matters raised in this report are considered to routine, uncontroversial or not legally complex and a legal opinion has not been sought on these proposals.

1.4 Financial and Value for Money Considerations

- 1.4.1 N/A

1.5 Risk Assessment

- 1.5.1 N/A

1.6 Policy Considerations

- 1.6.1 N/A

1.7 Recommendations

- 1.7.1 The Panel is asked to note the revised 'pool' of parish and town council representatives and the voting allocations for 2024-2025 (as set out in Annex 1) to be endorsed by the Joint Standards Committee at their first meeting in 2024.

Background papers:

Nil

contact: Allison Parris
Principal Democratic Services
Officer

Adrian Stanfield
Director of Central Services

JOINT STANDARDS COMMITTEE - PARISH/TOWN COUNCIL REPS AND VOTING ALLOCATIONS

Representing	Rep. Confirmed	Title	Last Name	First Name	Voting 2024	Voting 2025	Voting 2026
Addington	1	Mrs	SHORT	Chrys		1	
Aylesford	1	Mr	SULLIVAN	Allan		1	
Borough Green	1	Mr	SIMPSON	Ian		1	
Burham	1	Mr	STEAD	Bill	1		
Ditton	1	Mr	NEWMAN	Nigel	1		
East Peckham	1	Mr	WILLIAMS	Mark		1	
Hadlow	1	Mr	BALDOCK	Owen	1		
Kings Hill	1	Mr	PETTY	Tony		1	
Platt	1		PALMER	Wendy	1		
Plaxtol	1	Mr	CARBONI	Marius	1		
Ryarsh	1	Prof	McKINLAY	Mary	1		
Snodland	1		MORDECAI-WOLFE	Katherine			1
Trottscliffe	1	Mr	GAUNT	David		1	
Wrotham	1	Mr	BEACH	David			1
TOTAL:	14				6	6	2

Note: 4 vacant voting allocations for 2026

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EXTRACT OF PARISH PARTNERSHIP PANEL NOTES OF 9 NOVEMBER 2023

PPP 23/28 JOINT STANDARDS COMMITTEE - PARISH/TOWN REPRESENTATIVES AND VOTING ALLOCATIONS

The report of the Principal Democratic Services Officer confirmed parish/town council representatives for the Joint Standards Committee and allocated voting rights for the period 2024-2025, as set out in Annex 1.

In response to a question regarding substitutes for parish/town council voting members, the Panel was advised that whilst this was supported in principle the use of substitute members would need to be agreed by the Joint Standards Committee, by the Borough Council's Full Council and at each Parish Council.

RECOMMENDED*: That

- (1) The revised 'pool' of parish and town council representatives and the voting allocations for 2024 – 2025 (as set out at Annex 1) be endorsed by the Joint Standards Committee at its first meeting in 2024; and
- (2) Options for the use of substitute parish/town council voting representatives be investigated and presented to the Joint Standards Committee for consideration in due course.

***Recommended to Joint Standards Committee**

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TONBRIDGE & MALLING BOROUGH COUNCIL

JOINT STANDARDS COMMITTEE

05 June 2024

Report of the Interim Monitoring Officer

Part 1- Public

Matters for Information

1 UPDATE – CODE OF CONDUCT COMPLAINTS

Executive Summary

This report updates Members on the complaints made to the Monitoring Officer that a Member may have failed to comply with their authority's Code of Conduct.

1.1 Introduction

1.1.1 In accordance with the arrangements adopted by the Borough Council for dealing with complaints that a councillor has breached their authority's code of conduct, complaints are subject to an initial assessment by the Monitoring Officer in consultation with the Independent Person(s) and the Chair and Vice-Chair of the Joint Standards Committee. In advance of that assessment, the Monitoring Officer will invite the Councillor against whom the complaint is made to submit their initial views so that these may be taken into account in our deliberations.

1.1.2 Our adopted procedure requires that complaints are assessed against the following preliminary criteria –

The legal jurisdiction test - this contains 6 elements, including

- was the person complained of acting in an official capacity at the time of the alleged conduct?
- If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?

If a complaint fails one or more of the jurisdiction tests, no further action will be taken and the complaint will be rejected;

The local assessment criteria test - if a complaint passes the legal jurisdiction test, the Monitoring Officer is then required to apply the local assessment criteria test. There are 12 elements to this test, including

- The complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;
- The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter

If one or more of the local assessment criteria applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected.

1.1.3 If a complaint passes the above tests, the next stage is then to consider whether the complaint merits investigation, or if it is more appropriate for it to be resolved on an informal basis. In certain cases, it may also be appropriate to take no action, notwithstanding the fact that a complaint has passed the initial tests.

1.1.4 As previously agreed by this Committee, personal details of Complainants or Subject Members are not published unless a complaint leads to investigation and public hearing before the Hearing Panel.

1.1.5 Details of the complaints received since the previous meeting of this Committee are set out in the table attached at **Annex 1**.

1.1.6 6 further complaints are currently subject to initial assessment.

1.2 Standards Hearing Panel

1.2.1 On 8 December 2023 the Standards Hearings Panel met to consider a complaint about the conduct of Cllr Mark Hood, a member of Tonbridge and Malling Borough Council.

1.2.2 The allegations within the complaint relate to posts made in the name of the Tonbridge & Malling Green Party and the Judd Ward Green Party on 1 April and 5 April 2023 respectively. The latter of these posts took the form of a 'Personal Statement by Cllr Hood'.

1.2.3 The complaint alleged that these posts included details of a private and confidential workshop held at Tonbridge & Malling Borough Council offices on 13 March 2023 and that Cllr Hood had disclosed information acquired from the confidential workshop to the public on social media.

1.2.4 The Panel found that Cllr Hood had breached paragraph 3(2) (d) of the Tonbridge and Malling Borough Council Code of Conduct, which requires that as a member:

(2) you must not

...(d) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (i) you have the written consent of a person authorised to give it; or*
- (ii) you are required by law to do so; or*
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or*
- (iv) the disclosure is:*
 - reasonable and in the public interest; and*
 - made in good faith and in compliance with the reasonable requirements of the Authority*

1.2.5 The Panel resolved that the following sanction be imposed:

- (a) The Panel's findings be reported to the Full Council at its next ordinary meeting [This was reported to Full Council on 20th February 2024]

The Panel further recommended that consideration be given to the format of the workshops/informal meetings of such nature in the future, with particular reference made to notes and guidance provided for members.

1.2.6 A copy of the summary decision notice is attached as **Annex 2**.

1.3 Legal Implications

1.3.1 The Borough Council is required under s28(6) of the Localism Act to have in place arrangements under which allegations can be investigated and decisions on allegations can be made.

1.4 Financial and Value for Money Implications

1.4.1 The costs of appointing an external investigator in respect of the complaint against Cllr Mark Hood of Tonbridge and Malling Borough Council were £1211.25 plus VAT.

contact: Joy Ukadike

Joy Ukadike
Interim Monitoring Officer

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STANDARDS COMPLAINTS – JOINT STANDARDS COMMITTEE

AUGUST 2023 – JUNE 2024

DATE	AUTHORITY	SUMMARY OF COMPLAINT	RESOLUTION/ OUTCOME
21/09/23	Kings Hill Parish Council	2 complaints submitted against 4 members of Kings Hill Parish Council. Allegation that information was disclosed in public by the subject members that was confidential.	Passed initial assessment tests. Informal resolution. Recommendation that the Parish Council engage external support to assist them in promoting high standards of governance.
31/01/24	Trottscliffe Parish Council	Alleged breach of obligations of the code on bullying and harassment and conduct which could reasonably be regarded as bringing the Authority into disrepute.	Complaint did not pass the legal jurisdiction test and complaint was rejected.
23/02/24	Tonbridge And Malling Borough Council	2 separate but similar complaints from members of the public were submitted against one Councillor. Alleged breach of 3.2(a)(i)(ii), (c) and (g) of the code of conduct. The MO in consultation with the Independent Person and chair and vice chair of Joint Standards Committee felt the complaint needed to proceed to investigation.	Passed initial assessment tests and proceeded to investigation. The investigator did not find that any of the obligations had been breached.
25/03/24	Tonbridge And Malling Borough Council	Complaint against 5 TMBC Councillors - Alleged breach of 3.2(g) of the code – conduct which could reasonably be regarded as bringing the Authority into disrepute.	Complaint did not pass the legal jurisdiction test and complaint was rejected.
4/04/24	Wateringbury Parish Council	Alleged breach of obligations of the code on respect, bullying and intimidation	Complaint passed legal jurisdiction test but fell within paragraph (g) of the local assessment criteria Informal resolution – issue an apology

DATE	AUTHORITY	SUMMARY OF COMPLAINT	RESOLUTION/ OUTCOME
10/05/24	Tonbridge And Malling Borough Council	<p>Complaint against 3 TMBC Councillors - Alleged breach of 3.2(a)(i),(c) and (g) of TMBC Code – i.e. Bullying, not to do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of the Authority and conduct which could reasonably be regarded as bringing the Authority into disrepute.</p> <p>Complaint related to conduct at Council meeting.</p>	<p>Complaint did not pass the legal jurisdiction test.</p> <p>Complaint rejected</p>

TONBRIDGE & MALLING BOROUGH COUNCIL

RECORD OF DECISION

Decision Taken By: Standards Hearing Panel

Decision No:

D230001SHP

Date: 08 December 2023

Decision(s) and Reason(s)

Code of Conduct Complaint against a Borough Councillor

On 8 December 2023, the Hearing Panel of the Tonbridge and Malling Borough Council considered a report of an investigation into the alleged conduct of Tonbridge & Malling Borough Councillor Mark Hood (the "Subject Member"). The investigation was conducted by Mr Richard Lingard LLB, an investigator appointed by the Monitoring Officer.

A general summary of the complaint is set out below.

1. Complaint Summary

1.1 On 6 June 2023 the Monitoring Officer received a complaint from Cllr Matt Boughton, Leader of Tonbridge & Malling Borough Council about the conduct of Cllr Mark Hood, Leader of the Green group.

1.2 The allegations within the complaint relate to posts made in the name of the Tonbridge & Malling Green Party and the Judd Ward Green Party on 1 April and 5 April 2023 respectively. The latter of these posts took the form of a 'Personal Statement by Cllr Mark Hood'.

1.3 The complaint alleges that these posts included details of a private and confidential workshop held at Tonbridge & Malling Borough Council offices on 13 March 2023.

1.4 It was alleged that Cllr Hood had breached paragraph 3(2)(d) of the Code of Conduct, which provides that Members must not disclose information given to them in confidence. The full text of paragraph 3(2)(d) is set out below:-

(2) you must not

...(d) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

(i) you have the written consent of a person authorised to give it; or

(ii) you are required by law to do so; or

(iii) the disclosure is made to a third party for the purpose of obtaining

- professional advice provided that the third party agrees not to disclose the information to any other person; or*
- (iv) *the disclosure is:*
- *reasonable and in the public interest; and*
 - *made in good faith and in compliance with the reasonable requirements of the Authority*

2. Application of Schedule 12A Local Government Act 1972

- 2.1 The complaint and Investigating Officer's Report were presented to the Panel in private papers, as the information presented consisted of information relating to an individual / information which is likely to reveal the identity of an individual (paragraphs 1 and 2 of Schedule 12A).
- 2.2 The Panel was invited to consider whether the public interest in maintaining the exemption – and therefore holding the hearing in private - outweighed the public interest in having the matter heard in public.
- 2.3 The Monitoring Officer submitted that in most cases the public interest in transparent decision making by the Hearing Panel will outweigh the subject member's interest in limiting publication of an unproven allegation that has yet to be determined. There is a legitimate public interest in ensuring that elected members uphold the highest standards of conduct expected under their Codes of Conduct.
- 2.4 The Monitoring Officer did acknowledge there was risk of further confidential information contained in the report being released if the matter were to be heard in public. Moreover, there were other associated outstanding complaints, of which the investigation could be prejudiced if the hearing were to be held in public.
- 2.5 Cllr Hood submitted that the hearing should be held in public on the grounds that it would be in the public interest to do so. He contended that no further information relating to the workshop would be disclosed by holding the hearing in public.
- 2.6 In light of the representations made, the Panel considered that it was important that the confidentiality of the ongoing consultant work in respect of the asset review of the Tonbridge Town Centre was maintained and the investigation of the other associated outstanding complaints was not prejudiced, the public interest in maintaining the exemption should prevail and the matter should be heard in private. However, the Panel agreed that the Monitoring Officer be asked to consider whether the recordings of the hearing and the confidential report could be released to the public at a later date once the consultancy report and the other associated outstanding complaints had been resolved.

3. Consultation with Independent Person

- 3.1 The Independent Person (IP) made written submissions to the Panel.

3.2 On the issue of whether or not there had been a breach of the Code by Cllr Hood, the view of the IP was that there had been a breach. He concurred with paragraph 8.10 of the investigator's report, in particular his finding that the timing of a direction of confidentiality is irrelevant if it still occurs within a relevant meeting or event. In the view of the IP, it was clear that, at least on some level, and by all accounts, Cllr Boughton provided such a direction or request during the workshop. Coupled with the wording of the briefing note, which Cllr Hood received prior to the meeting, the IP agreed that on the balance of probabilities Cllr Hood had breached the Code by virtue of disclosing information he was either aware or ought to have been reasonably aware was confidential.

4. Findings

4.1 The Panel received the report of the external independent investigator (Investigating Officer), Mr R Lingard of Richard Lingard LLB, who had been appointed to carry out the investigation into the allegation. The report, dated 7 September 2023, contained details of the relevant legislation and protocols, evidence gathered and witness statements and was presented by Mr R Lingard.

4.2 The Investigating Officer's report found that, on the balance of probabilities, Cllr Hood had breached paragraph 3 (2) (d) of the Tonbridge & Malling Borough Council Code of Conduct.

4.3 The Panel had regard to all the evidence, including the Investigating Officer's report and the evidence given by Cllr Hood, and having taken into account the views of the Independent Person, concluded, on the balance of probabilities on the evidence presented to it, that in relation to paragraph 3 (2) (d):

4.3.1 the nature of the consultant workshop in question was confidential; and

4.3.2 Cllr Hood had disclosed information acquired from the confidential workshop to the public on social media.

4.4 The Panel therefore found that Cllr Hood had breached the Tonbridge & Malling Borough Council Code of Conduct.

5. Sanctions Applied

5.1 The Panel received and had regard to a further written statement of the Independent Person in relation to sanctions. In coming to its conclusions on the sanctions the Panel again had regard to the legal advice provided and was mindful of the need to impose reasonable and proportionate sanctions. Additionally the Panel had regard to the following factors:

5.1.1 Cllr Hood had sought advice from the Monitoring Officer before disclosing the confidential information on social media. He was therefore aware that disclosure of the information would be likely to

constitute a breach of the Code of Conduct;

5.1.2 Cllr Hood could not confirm that the incident would not be repeated in the future;

5.1.3 No apology had been given by Cllr Hood to any affected persons; and

5.1.4 Cllr Hood had not previously breached the Borough Council Code of Conduct.

5.2 The Hearing Panel therefore resolved that the following sanction be imposed:

5.2.1 the Panel's Findings be reported to the Full Council at its next ordinary meeting.

5.3 The Panel further recommended that consideration be given to the format of the workshops/informal meetings of such nature in the future, with particular reference made to notes and guidance provided for Members.

6. Appeal

6.1 There is no right of appeal against the Panel's decision.

7. Notification of Decision

7.1 This decision is sent to:

- Subject Member (Cllr Hood)
- Complainant (Cllr Boughton)

Reasons: As presented to the Standards Hearing Panel on 8 December 2023

Signed Chairman of
Standards Hearing Panel:

D Davis

Date of publication:

12 February 2024

Agenda Item 8

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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Agenda Item 9

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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Agenda Item 10

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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