

**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 20<sup>th</sup> 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.

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