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Guildford Borough Council

Weightmans reference: SIG/820982/2

**Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre**



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Summary

1. A complaint was made by Martin Giles, the editor of Guildford Dragon News (“GDN”) that Cllrs Paul Spooner and Graham Eyre, members of Guildford Borough Council (“the Council”), failed to comply with the Council’s Code of Conduct for members (“the Code”).
2. The complaint states that the councillors failed to comply with the Code as follows;
 - a. Cllr Spooner;
 - i. sent an email to David Reading on 26 June 2021 which stated, “David I am seriously unimpressed that Giles has sent other members of the group my responses for collaboration. So you can get stuffed.”
 - ii. sent a WhatsApp message to David Reading stated, “Is the rag you write for incapable of understanding the difference between a vote and a nomination? I was the only group member nominated and the vote was 8:1. I hope that is clear for your pea brained editor.”
 - iii. posted a tweet which stated, “What a seedy rag @guildforddragon is. They send me qns (sic) for answering. I do that promptly and to the best of my ability and then they circulate to other members of the group as they don’t believe my responses. Balanced? Laughable.” and
 - iv. posted a tweet which stated, “They send me set questions from their Ash correspondence David Reading. Giles as editor doesn’t like the collegiate responses and starts contacting other Group members as he doesn’t believe me and wants scandal. It really is a dirty little rag.”
 - b. On 26 June 2021 Cllr Eyre stated in an email to David Reading, “The latest little bending of the truth regarding Paul being elected as Group Leader. Your grubby little paper, or should I say your grubby little boss, cannot accept anything he doesn’t like, so he just prints lies and insinuations. I, for one, thought you were better than that, and wouldn’t allow

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unsubstantiated rumours to be printed. The information you were given was absolutely correct and could have been verified by anyone at the meeting. However, Giles decides to go with lies from people who weren't even there. It's a sad day, but it's not the first time lies and half truths have been printed in the Dragon, rather than facts. Graham."

3. I have investigated these complaints and concluded that;
 - a. Cllr Spooner **has failed** to comply with the Code; and
 - b. Cllr Eyre **has failed** to comply with the Code.

The reasons are set out in this report.

Relevant Legislation

4. The Localism Act 2011 ("the 2011 Act") governs standards of conduct for members of relevant authorities in England with effect from July 2012. Under the 2011 Act, the Council:
 - a. is under a duty to promote and maintain high standards of conduct;
 - b. must adopt a Code of Conduct which is consistent with the statutory principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
5. The 2011 Act requires a relevant authority to have in place arrangements for investigating allegations of failure to comply with the Code, and taking decisions about them, including appointing one or more independent persons, one of whose views must be sought before a decision is made, and one of whose views may be sought by the member against whom an allegation is made.
6. The Council has adopted the Code (SG1) and arrangements for dealing with allegations that a member of the Council in its area has failed to comply with the Code (SG2).
7. So far as material, the Code provides as follows:

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Section 2 (1) You must treat others with respect.

Section 4 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute, or in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by councillors and co-opted members.

8. The LGA has issued guidance on its model code of conduct which contains similar provisions to those referred to above. The guidance is not binding but is helpful in considering how the relevant paragraphs should be applied. In relation to “respect” it states:

Disrespectful behaviour can take many different forms ranging from overt acts of abuse and disruptive or bad behaviour to insidious actions such as bullying and the demeaning treatment of others. It is subjective and difficult to define. However, it is important to remember that any behaviour that a reasonable person would think would influence the willingness of fellow councillors, officers or members of the public to speak up or interact with you because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour.

Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion, attempts to shame or humiliate others in public, nit-picking and fault-finding, the use of inappropriate sarcasm in communications and the sharing of malicious gossip or rumours.

9. Section 27 of the 2011 Act provides that a local authority's code of conduct shall apply to members “when they are acting in that capacity.”

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10. The meaning of and extent of “official capacity” was considered by the courts in the cases of *(R) Mullaney v The Adjudication Panel for England [2009] EWHC 72 (Admin)* (“the Mullaney case”) and *Livingstone v APE [2006] EWHC 2533 (Admin)* (“the Livingstone case”). These cases were considered under the Local Government Act 2000 which set out the legal framework governing member conduct in England prior to its repeal by the Act. However, the principles set out in the decisions in those cases remain relevant to the current law.
11. In the Mullaney case, Charles J recognised that applying the term, “is inevitably fact sensitive and whether or not a person is so acting inevitably calls for informed judgment by reference to the facts of the given case.” In that case the councillor trespassed on premises and made a video to highlight alleged breaches of planning law and named and shamed the owner. The Council stated that he was not acting in his capacity as a councillor. However, the court did not accept this. Charles J stated:

I acknowledge that there would be advantage in certainty as to where the line is to be drawn between these activities and thus as to when the Code applies and when it does not. But to do that the language of the Code would have to be explained and thus added to, paraphrased or qualified and it seems to me that given that it uses ordinary English words (and is based on ordinary English words used in the statute, namely “in performing his functions” see s. 52(2)) this would be inappropriate and would potentially lead to the error being made of applying guidance as to the application of a test as if it was itself such a test.

12. Charles J further stated:

in my view magnetic or core factors in it, which found my view that the Appeals Committee is plainly right, are that the taking and publication of the video was a continuum of steps taken in respect of the property by the Claimant on behalf of a constituent as (and identifying himself as) a Councillor by making “Councillor Enquiries”, his membership of the Planning

Committee, his legitimate and keen interest in the building as a Councillor (who is interested in planning matters) and his identification of himself as a Councillor on the video and in its publication.

13. In the Livingstone case, Collins J stated, “official capacity will include anything done in dealing with staff, when representing the Council, in dealing with constituents’ problems and so on.” In the Livingstone case the then Mayor of London had attended an official engagement in his capacity as the Mayor. As he was leaving the function he was confronted by a journalist. Mr Livingstone likened the journalist to a concentration camp guard. The Court held that the comments were not made by Mr Livingstone in his capacity. Collins J stated:

The Tribunal correctly decided that the appellant was not in his official capacity when he made the remarks in question. It is not in my view even arguable that when making them he was performing his functions as Mayor.

14. Any allegation of a failure to comply with the Code must also be carefully considered in the light of the Articles of the European Convention on Human Rights as embodied in to UK law by the Human Rights Act 1998. Article 10 of the Convention states:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of...public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others...

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15. The way in which Article 10 rights should be considered in relation to code of conduct allegations was dealt with in the case of *Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504 (Admin)* (“the Heesom case”). It is recognised that enhanced protection is given to “political expression.” In the Heesom case it was stated:
16. While freedom of expression is important to everyone, Strasbourg has recognised the importance of expression in the political sphere. It has long-recognised that what is said by elected politicians is subject to enhanced protection”, i.e. a higher level of protection, under article 10.
17. In the Heesom case the judge reviewed the previous case law on Article 10 and derived the following principles:
 - i) *The enhanced protection applies to all levels of politics, including local (Jerusalem, especially at [36]).*
 - ii) *Article 10 protects not only the substance of what is said, but also the form in which it is conveyed. Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated (see, e.g. de Haes at [46]–[48], and Mamère at [25]: see also Calver at [55] and the academic references referred to therein). Whilst, in a political context, article 10 protects the right to make incorrect but honestly made statements, it does not protect statements which the publisher knows to be false (R (Woolas) v Parliamentary Election Court [2012] EWHC 3169 at [105]).*
 - iii) *Politicians have enhanced protection as to what they say in the political arena; but Strasbourg also recognises that, because they are public servants engaged in politics, who voluntarily enter that arena and have the right and ability to respond to commentators (any response, too, having the advantage of enhanced protection), politicians are subject to “wider limits of acceptable criticism” (see, e.g., Janowski at [33]; but it is a phrase used in many of the cases). They are expected*

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and required to have thicker skins and have more tolerance to comment than ordinary citizens.

iv) Enhanced protection therefore applies, not only to politicians, but also to those who comment upon politics and politicians, notably the press; because the right protects, more broadly, the public interest in a democracy of open discussion of matters of public concern (see, e.g., Janowski at [33]). Thus, so far as freedom of speech is concerned, many of the cases concern the protection of, not a politician's right, but the right of those who criticise politicians (e.g. Janowski, Wabl and Jerusalem). Castells, of course, was both; the senator criticising politicians within the Spanish Government through the press.

v) The protection goes to "political expression"; but that is a broad concept in this context. It is not limited to expressions of or critiques of political views (Calver at [79]), but rather extends to all matters of public administration and public concern including comments about the adequacy or inadequacy of performance of public duties by others (Thorgeirson at [64]: see also Calver at [64] and the academic references referred to therein). The cases are careful not unduly to restrict the concept; although gratuitous personal comments do not fall within it.

vi) The cases draw a distinction between fact on the one hand, and comment on matters of public interest involving value judgment on the other. As the latter is unsusceptible of proof, comments in the political context amounting to value judgments are tolerated even if untrue, so long as they have some - any - factual basis (e.g. Lombardo at [58], Jerusalem at [42] and following, and Morel at [36]). What amounts to a value judgment as opposed to fact will be generously construed in favour of the former (see, e.g., Morel at [41]); and, even where something expressed is not a value judgment but a statement of fact (e.g. that a council has not consulted on a project), that will be tolerated if what is expressed is said in good faith and there is some reasonable (even if incorrect) factual basis for

saying it, “reasonableness” here taking account of the political context in which the thing was said (Lombardo at [59]).

vii) As article 10(2) expressly recognises, the right to freedom of speech brings with it duties and responsibilities. In most instances, where the State seeks to impose a restriction on the right under article 10(2), the determinative question is whether the restriction is “necessary in a democratic society”. This requires the restriction to respond to a “pressing social need”, for relevant and sufficient reasons; and to be proportionate to the legitimate aim pursued by the State.

viii) As with all Convention rights that are not absolute, the State has a margin of appreciation in how it protects the right of freedom of expression and how it restricts that right. However, that margin must be construed narrowly in this context: “There is little scope under article 10(2) of the Convention for restrictions on political speech or on debate on questions of public interest” (see, e.g., Lombardo at [55]–[56], Monnat at [56]).

ix) Similarly, because of the importance of freedom of expression in the political arena, any interference with that right (either of politicians or in criticism of them) calls for the closest scrutiny by the court (Lombardo at [53]).

18. In the Heesom case, the court endorsed a three stage approach to dealing with Article 10 in code of conduct cases as follows:
- a. Does the conduct alleged amount to a breach of the Code, putting aside Article 10 considerations?
 - b. If so, does this finding in itself or the imposition of a sanction prima facie a breach of Article 10?
 - c. If so, was the restriction involved one which was justified by reason of the requirements of Article 10(2)?

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Members' official details

19. Cllr Spooner has been a member of the Council since 2013. He is the leader of the Conservative group on the Council. He is a member of the Council's Climate Change Board, Employment Board, Guildford Joint Committee and Planning Committee. He is also chairman of the Overview and Scrutiny Committee.
20. Cllr Eyre has been a member of the Council since 2019. He is a member of the Council's Joint Executive Advisory Board and Strategy and Resources Executive Advisory Board. He is also appointed to the following outside bodies; Ash Citizens' Advice Bureau and Blackwater Advisory Committee for Public Transport.

Background

21. The complaint arises from the events which led to the GDN publishing a story about the election of Cllr Spooner as leader of the Conservative Group on the Council in June 2021.
22. Mr Reading a part time reporter on the GDN contacted Cllr Spooner with a number of questions about the election. Cllr Spooner responded promptly and fully.
23. Mr Giles, the complainant and editor of the GDN, had received an account which differed from that given by Cllr Spooner. Mr Giles sent a message to Cllr Billington which stated:

Hi Richard. Trust all is well. Were you at your group's AG? Can you corroborate Paul Spooner's answers to our questions please. The vote figure contradicts what we were told by one other source but I can imagine Paul being untruthful on this as it would be so easily pointed out by others present.

24. Cllr Billington tried to telephone Mr Giles but Mr Giles missed the call and published the original story which suggested that there were contradictory comments about the vote. This was later corrected to reflect the fact that the election was uncontested.

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25. In his complaint and evidence Mr Giles made it clear that his text to Cllr Billington contained a typographical error in that when it stated, "I can imagine Paul being untruthful", it should have said "can't". Mr Giles states that this is obvious from the context when looking at the message as a whole.
26. Cllrs Spooner and Eyre became aware of the message sent by Mr Giles to Cllr Billington. This upset and angered them as they felt that Mr Giles was questioning Cllr Spooner's truthfulness and accusing him of lying.
27. There followed exchanges of correspondence between Cllrs Spooner and Eyre and Mr Reading about the story which included:
28. An email from Cllr Spooner to David Reading on 26 June 2021 which stated:

David I am seriously unimpressed that Giles has sent other members of the group my responses for collaboration. So you can get stuffed.

29. A WhatsApp message from Cllr Spooner to David Reading which stated:

Is the rag you write for incapable of understanding the difference between a vote and a nomination? I was the only group member nominated and the vote was 8:1. I hope that is clear for your pea brained editor.

30. There was an exchange of emails between Cllr Eyre and David Reading as follows:

Cllr Eyre to David Reading 26 June 2021 at 18.53

David, what a shame you allowed the latest lies about Paul Spooner to be printed.

Don't ever come to any of us Conservatives again for anything.

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Graham.

David Reading to Councillor Eyre on 26 June at 19.09

Thanks for your email Graham. I know you have just cut off all communication, but would you just specify what lies you are referring to.

Regards,

David

Cllr Eyre to David Reading on 26 June 2022 at 19.22

The latest little bending of the truth regarding Paul being elected as Group Leader. Your grubby little paper, or should I say your grubby little boss, cannot accept anything he doesn't like, so he just prints lies and insinuations.

I, for one, thought you were better than that, and wouldn't allow unsubstantiated rumours to be printed. The information you were given was absolutely correct and could have been verified by anyone at the meeting. however, Giles decides to go with lies from people who weren't even there.

It's a sad day, but it's not the first time lies and half truths have been printed in the Dragon, rather than facts.

Graham.

31. Cllr Spooner also posted two tweets on twitter which stated:

What a seedy rag @guildforddragon is. They send me qns (sic) for answering. I do that promptly and to the best of my ability and then they circulate to other members of the group as they don't believe my responses. Balanced? Laughable.

and:

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They send me set questions from their Ash correspondence David Reading. Giles as editor doesn't like the collegiate responses and starts contacting other Group members as he doesn't believe me and wants scandal. It really is a dirty little rag.

Summary of the Evidence Gathered

The evidence obtained

32. The following witnesses were interviewed during the investigation:

Martin Giles (SG3)
David Reading (SG4)
Cllr Spooner (SG5)
Cllr Eyre (SG6)

33. All have confirmed written records of their interviews.

34. I also sought to interview two further witnesses. Cllr Richard Billington and the Chair of the Guildford Conservative Association. The complainant had indicated that they had evidence relevant to his complaint.

35. I was unable to interview Cllr Billington. He was seriously ill and has very sadly recently died.

36. The Chair of the Guildford Conservative Association responded to my request for an interview stating, "Further to our conversation last week, I am writing to inform you that I will not be taking part in your investigation of Martin Giles' complaint as it is in relation to GBC and not Guildford Conservatives."

37. The Council's Deputy Monitoring Officer described the process leading to my instructions and supplied me with relevant documentation, including the following:

- The complaint form and documents attached (SG7)
- Correspondence regarding the complaints (SG8)

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Evidence of Martin Giles

38. Mr Giles confirmed that he had made a complaint to the Monitoring Officer of Council and that he wished to pursue the complaints and that the contents were true and accurate as far as he was concerned. Mr Giles stated that he had been told that the complaint could only have one name associated with it but the Council was aware of Mr Reading's involvement and position.
39. Mr Giles explained that he is the editor of the GDN. He stated that there has been a difficult relationship between GDN and Cllr Spooner. He stated that at the time of events which gave rise to the complaints Cllr Spooner was willing to answer questions from GDN. Mr Giles stated that he went to a second person for corroboration of the answers. He stated that it was not that he did not believe what Cllr Spooner said but he did not understand the answers. He stated that there was also a time pressure because of the nature of the story.
40. Mr Giles stated that there were two reasons he went to someone else. He stated that firstly it is always good to get corroboration from a second source. He stated that secondly Cllr Spooner had described the vote result as being 8:1 which contradicted what he had been told by someone else.
41. I asked Mr Giles if the GDN had published that the vote had been 5:4; he explained that this had been referred to and the story on the GDN website stated "The election was uncontested. [This has been clarified since this story was first published.]" Mr Giles stated that he did not believe that they had published that, though they may have done and then clarified it. He stated that Cllr Billington had corroborated the vote details given by Cllr Spooner but he thought this had been done over the telephone and so he did not have that in writing. He stated that Cllr Billington explained that there had not been another candidate but the vote was 8:1 because one person had not voted for Cllr Spooner.

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42. Mr Giles stated that at the same time that he contacted Cllr Billington, Mr Reading had contacted Cllr Spooner for further clarification and Cllr Spooner's response was part of the basis of the complaint.
43. Mr Giles stated that he discussed the story with Mr Reading. He explained that Mr Reading sent the questions to Cllr Spooner and when he got the response they were not clear on the voting. Mr Giles stated that he told Mr Reading that he would contact other councillors to find out and Mr Reading went back to Cllr Spooner.
44. I stated that there had been reference to Mr Giles publishing a story on the word of someone who was not even at the meeting where the vote had taken. Mr Giles stated that the suggestion that the vote had been 5/4 may have come from someone who was not there but that was why they had sought corroboration of the story.
45. I stated that Cllr Eyre had stated that his email correspondence with Mr Reading had been from his personal email address and was purely personal. He stated that it related solely to Council business and he did not think that just because it was sent from his personal email it meant that the Code did not apply.
46. I stated that Cllr Spooner had raised the point that the WhatsApp messages referred to in the complaint were a small sample of those exchanged between him and Mr Reading and had been taken out of context. Mr Giles stated that he did not think that he had seen any others.
47. Mr Giles stated that following the complaint Cllr Spooner had cut off all communications with GDN which made it difficult for GDN to report on the Conservative Group's views. He stated that they now have to go through the Guildford Conservative Association. Mr Giles stated that GCA had apologised for retweeting Cllr Spooner's tweet which referred to the GDN as a "seedy rag".
48. Mr Giles stated that the GDN's relationship with Cllr Spooner had been off and on for some time and depended on whether he liked the last article they had written. He stated that Cllr Spooner has

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refused to communicate with the GDN for nine months now. He stated that GDN do still publish quotes for Cllr Spooner; it is Cllr Spooner not wanting to talk to the GDN.

49. Mr Giles stated that all he had asked for was an apology. He stated that he had also offered a resolution involving the publication of the informal decision of the deputy monitoring officer so people could make up their own minds. He stated that he did not think that council tax payers' money should be spent on this.
50. I asked why Mr Giles had identified the Chair of the Guildford Conservative Association as a witness. He explained this was because she took down the retweet of Cllr Spooner's tweet and apologised.
51. Mr Giles stated that he wished to stress the typo in his text to Cllr Billington but stated that it was obvious as the text would not have made sense otherwise.
52. Mr Giles stated that he believed that this was a simple matter and the Code had been breached. He stated that he accepted that it was not the biggest thing in the world and there should be an apology and everyone could move on.
53. After the interview Mr Giles emailed me stating:

I have checked the edit trail of the story: "Paul Spooner Is Leader of GBC's Conservatives Again" which, I guess, is the one you referred to during the interview. It seems that at no stage did we publish a story saying the vote was 5-4. It was put to him as a question for him to confirm or deny, which he did by saying it was 8-1.

The acknowledged clarification was the insertion of the sentence: He gained the support of eight of the nine group members. The election was uncontested.

We did not doubt Paul Spooner's word that the vote was 8-1 (as I said in my text to Richard Billington there would be little point

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in lying given it was a witnessed event) but did not understand what the "1" represented, was it another candidate or an abstention? The latter turned out to be the case.

54. Mr Giles also provided to me an email from the Guildford Conservative Association regarding Cllr Spooner's tweet (SG9). The email stated:

I've spoken to [name redacted] just now; she's in a meeting so has asked me to apologise on her behalf. I have removed the retweet and looking into how this has happened. I've just also had to remove a retweet from a parody account set up in [name redacted] name, so there is a possibility we've been hacked.

Please be assured that Paul's post isn't something the Management Team at GCA would choose to retweet.

Our apologies once again.

Evidence of David Reading

55. Mr Reading confirmed that he worked as a part time reporter for the GDN. He stated that he reports for the Ash area.
56. Mr Reading stated that the story about Cllr Spooner's re-election as leader of the Conservative group on the Council was Mr Giles's story. He explained that Mr Giles was the editor of the GDN. He stated that this came about after Cllr Spooner posted on Twitter his thanks to colleagues for voting him in as leader at the group AGM.
57. Mr Reading explained that because he got on with Cllr Spooner Mr Giles asked him to email Cllr Spooner a series of questions. Mr Reading stated that he did this on 25 June 2021. Mr Reading stated that Cllr Spooner replied on the same day with quite sensible answers to the questions which he filed with Mr Giles. He stated that Mr Giles had one or two queries on the answers because he felt that it left unanswered questions. Mr Reading stated that Mr Giles contacted Cllr Billington to confirm and corroborate some of Cllr Spooner's answers. He stated that this was the flashpoint.

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58. Mr Reading stated that it was clear from Cllr Spooner's subsequent emails to him that he was seriously unimpressed that Mr Giles had sought "collaboration" of what he had said. Mr Reading stated that it was perfectly normal to seek corroboration of information provided. This did not mean that there was any suspicion that Cllr Spooner's answers were untrue. Mr Reading stated that there had been a genuine typo in Mr Giles's message to Cllr Billington referring to Cllr Spooner being untruthful. He stated that it was perfectly normal for Mr Giles to check the facts were correct.
59. Mr Reading stated that he could not get inside Cllr Spooner's mind so could not say if he was upset with him or GDN. He stated that he had tried to contact Cllr Spooner since about other matters but Cllr Spooner had said that he wanted nothing more to do with GDN, though he had given a quote on an issue in the area as he wanted to clarify something. Mr Reading stated that Cllr Spooner was a good contact so it was a pity it had gone down this route. He stated that he did believe the action taken by Mr Giles in making the complaint was solid as the responses from Cllrs Spooner and Eyre had been unreasonable and he was fully supportive of Mr Giles's complaints.
60. I asked Mr Reading about the WhatsApp messages as Cllr Spooner had stated that the selection referred to in the complaint was selective. He stated that he would have sent all messages to Mr Giles. He stated that if Cllr Spooner had other messages relevant to the way he acted he could presumably provide them.
61. Mr Reading stated that he had no strong views on Cllr Eyre at all. He stated that Cllr Eyre's comments about the GDN referring to grubby people and a grubby little paper were unpleasant.
62. I asked Mr Reading about why the email exchange between him and Cllr Eyre was using Cllr Eyre's personal rather than Council email account. He stated that he was sure that Cllr Eyre would have initiated this exchange. He explained that prior to becoming a councillor Cllr Eyre had been chair of the local residents' association so he would have used his personal email address to contact him

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then but would have thought he would have used Cllr Eyre's Council email address if he contacted him about Council issues.

Evidence of Cllr Spooner

63. Cllr Spooner explained that he is a member of the Council and has been since 2013. He stated that he had been a councillor of Ash Parish Council since 2011. He confirmed that he is leader of the opposition on the Council and had been leader of the Council between 2015 and 2019.
64. Cllr Spooner stated that there had been an interesting relationship between the Conservative group on the Council and the GDN. He stated that GDN was an online news/blog site which had operated for around 10 years.
65. He stated that he likes to be fair. He stated that Mr Giles has political leanings which are not to the Conservative party. He stated that Mr Giles edits comments made by councillors and this can be done in a number of ways. He stated that it is not just Conservative councillors who have complained about the way Mr Giles has edited things. He stated that Mr Giles responds by saying that national news organisations edit but Cllr Spooner stated that the national newspapers do not hold themselves out as being unbiased.
66. Cllr Spooner stated that he has always had an excellent relationship with Mr Reading. He stated that Mr Reading is an excellent community spokesperson who makes every effort to understand a story before presenting it to the editor. He stated that Mr Reading does not have the final say on stories though.
67. Cllr Spooner stated that he had not been clear on whether Mr Giles had been making a complaint on behalf of GDN or just in his capacity as a journalist.
68. Cllr Spooner explained the history of the process. He stated that on 25 June 2021 he received an email from Mr Reading to his Council email address. He stated that the subject was his re-election as leader of the Conservative group. He stated that in the email Mr

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Reading asked a series of questions which were absolutely fine. He stated that he saw no reason not to answer those questions which he did and thought that would be the end of it.

69. Cllr Spooner stated that later that evening he received a telephone call from Cllr Billington. He stated that Cllr Billington read out a text which he had received from Mr Giles. He stated that he had been very unhappy to receive that call and Cllr Billington had been unhappy that Mr Giles had questioned his truthfulness. He stated that Mr Giles had been dismissive about this saying later it was a typo in his text but it was not surprising that Cllr Billington had felt that it was rudely and directly questioning Cllr Spooner's integrity at the time. He stated that he accepted, after receiving the complaint form, some days later, that it was an error.
70. Cllr Spooner stated that he thought that Mr Giles should have apologised to him. He stated that set the context for what happened next. He stated that Mr Reading contacted him the following day and his response had been very curt as he had been very unhappy. He stated that he did not swear or use any expletives. He stated that it was sent to a journalist not a resident as the contact from Mr Reading was as a journalist. He stated that considering what had gone on he still felt that it was quite measured.
71. Cllr Spooner stated that even if his answers to Mr Reading's questions had been answered in an inappropriate or inaccurate way (which they were not) they should have been published without going to check the facts. He stated that GDN circulate responses to opposition councillors sometimes to create scandal.
72. Cllr Sooner stated that he was unhappy that he had answered the questions put to him honestly and fairly but that they had then been touted around others; he knew about them contacting Cllr Billington but did not know who else had been contacted. Cllr Spooner stated that Mr Reading had referred to someone else clarifying. He stated that group meetings were private. He stated that he felt that the process of dealing with the questions had been flawed on a journalistic level.

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73. Cllr Spooner stated that he then had further email correspondence with Mr Reading and he had not pulled any punches.
74. Cllr Spooner stated that it had been proposed by Mr Giles that a solution would be to publish the complaint as resolution. Cllr Spooner stated that he agreed this in principle so long as he had a right of reply but the deputy monitoring officer said no the GDN did not accept that. He stated that he did not see how anyone could possibly agree to that proposal.
75. Cllr Spooner stated that there had been 200 WhatsApp messages between him and Mr Reading. He stated that out of professional fairness he would not disclose all of these.
76. Cllr Spooner stated that he did send a private WhatsApp message to Mr Reading which referred to GDN as a “rag” and Mr Giles as its “pea brained editor”. He stated that this was not in public and he would not publish WhatsApp messages and was disappointed that Mr Reading had shared it. He stated that if he had made those comments in the public arena he would have withdrawn them or apologised.
77. After the interview I emailed Cllr Spooner and asked him about the tweets referred to in the complaint. He replied stating;

I can confirm that the tweet you attached was sent to me in a personal capacity (“views my own”) as per my twitter profile. It was not personal to a resident and referred to a (sic) online news/blog site. This morning I was at a public meeting where a Secretary (sic) of State referred to the Guardian Newspaper in exactly the same way, and stated it was a personal view of his!

Evidence of Cllr Eyre

78. Cllr Eyre confirmed that he is a member of the Council and had been since 2019. He confirmed that he had received training on the Code of Conduct.

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79. Cllr Eyre explained that he had known Mr Reading for a lot of years. He explained that before he became a councillor he had been Chairman of Ash Residents' Association ("ARA") and he got on well with Mr Reading. He stated that when he had been Chairman of the ARA Mr Reading had contacted him if there was any story which he thought the ARA would have an interest in.
80. He stated that Mr Giles is a tory baiter who hates Conservatives and loves to wind them up and print untruths. He stated that he felt Mr Giles had gone too far and his article basically called Cllr Spooner a liar.
81. Cllr Eyre stated that he sent an email to Mr Reading saying what he thought of Mr Giles. He stated that it was his personal opinion about Mr Giles. He stated that it basically went from there. He stated that it was a personal email which he sent to someone he had known for 15 years; it was a comment and that was it. He stated that the email was not directed to Mr Giles. He stated that there was no way he was going to apologise for something he didn't even say to the guy.
82. Cllr Eyre explained that the issue arose because previously there had been a split in the Conservative group on the Council and this went on for some time. He stated that they wanted to resolve it and reform as one group. He explained that they then had their first group meeting in quite a while with all councillors. He stated that there had been two groups with separate leaders. He stated that it was decided at the meeting that Cllr Spooner would be the leader of the newly reformed group. He stated that everyone there was in favour of Cllr Spooner being the leader.
83. Cllr Eyre stated that news of this got to Mr Giles and he produced an article saying that it was not a unanimous vote. He stated that Cllr Spooner had told Mr Giles that it was unanimous. He stated that Mr Giles produced an article saying that what Cllr Spooner had said was not true. He stated that Mr Giles had not been there and no one Mr Giles knew had been there but he was basically saying that Cllr Spooner was lying. Cllr Eyre stated that had been the last straw for

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Cllr Spooner as it came on top of a lot of stories in the GDN which had not been nice about the Conservative group.

84. Cllr Eyre stated that he could have sent something to Mr Giles telling him what he thought about him but he had sent a personal email to Mr Reading which had been less than complimentary about Mr Giles. He stated that he had not intended for Mr Reading to pass it to his boss. He stated that it was one of those things; what people do with emails you send to them is out of your hands. He stated that he was not sorry that he had sent the email.

Findings of fact

85. The facts relevant to the complaints in the case are not in dispute. Cllr Spooner does not deny sending the email and WhatsApp messages which form the basis of the complaint. He also does not deny posting the tweets which form the basis of the complaint.
86. Cllr Eyre does not deny sending the email which forms the basis of the complaint.

Reasoning as to whether there is a breach of the Code.

87. The relevant parts of the Code which I have considered during my investigation are paragraphs 2(1) and 4.
88. The test in deciding whether or not there has been a breach of the code is objective: would a reasonable person aware of all the material facts and ignoring all immaterial factors consider that there has been a breach of the code?
89. The code of conduct only applies to the conduct of a member acting as a councillor and not at any other time. I have considered whether Cllrs Spooner and Eyre were acting in their capacity as councillors at the relevant times. In my view they were.
90. Cllr Spooner sent the email to Mr Reading from his Council email address. The contact from David Reading was solely about the process of the election of Cllr Spooner to be group leader of the

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Conservative Group. The messages and tweets referred to in the complaint were entirely related to Cllr Spooners election and his role as group leader of the Conservative Group on the Council. The interaction by councillors with the local press is an integral part of the role of councillors, particularly senior councillors. In respect of each of the matters complained about these were clearly directly issues which Cllr Spooner was only engaged in as a councillor and not in any other capacity.

91. Cllr Eyre sent the email to Mr Reading from his private email address. However, of itself this does not mean that he was not acting as a councillor. To determine in what capacity he was acting in doing so the purpose and nature of the correspondence needs to be considered. A councillor cannot avoid their obligations under the Code simply by not using their council email address. As with Cllr Spooner this correspondence only arose as a result of Cllr Eyre's position as a councillor and was specifically about Council matters; Cllr Spooner's election as leader of the Conservative group on the Council. Therefore, he was acting in his capacity as a councillor when sending that email.
92. The comments made by Cllr Spooner in his email to Mr Reading telling him to, "get stuffed" clearly showed a lack of respect to Mr Reading and, therefore, amounted to a failure to comply with paragraph 2(1) of the Code.
93. The comments made by Cllr Spooner in his WhatsApp message to Mr Reading, referring to Mr Giles as his "pea brained editor" clearly showed a lack of respect to Mr Giles and, therefore, amounted to a failure to comply with paragraph 2(1) of the Code.
94. In making these unnecessary and derogatory comments Cllr Spooner failed to maintain the high standards of conduct expected of councillors and, therefore, amounted to a failure to comply with paragraph 4 of the Code.
95. The tweets posted by Cllr Spooner referred to the GDN as a "dirty little rag" and "a seedy little rag." Cllr Spooner also states in the tweets that Mr Giles did not believe his responses. These are

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comments about a media organisation and not specifically about an individual. The references to it as a rag are political puff and rhetoric and not personal comments. Whilst journalists and the editors may take exception and be affronted by such comments and feel it questions their professionalism as journalists they are not comments which amount to a lack of respect within the meaning of the Code. They do not amount to a failure to show respect within the meaning of the Code or a failure to maintain high standards of conduct. As Cllr Spooner suggested they are fairly commonplace comments which politicians may make about media outlets they feel are unfavourable to them and I believe they would be perceived by the public in that way.

96. The email from Cllr Eyre to David Reading referred to Martin Giles as Mr Reading's "grubby little boss". was clearly disrespectful to Mr Giles and, therefore, amounted to a failure to comply with paragraph 2(1) of the Code. This also fails to maintain high standards of conduct. Cllr Eyre argues that he made the comments in a private email to Mr Reading and not to Mr Giles. However, the fact that the disrespectful comments were made to a third party does not excuse them or make them any less disrespectful.
97. I have carefully considered both Cllr Spooner and Cllr Eyre's Article 10 rights. In accordance with the process outlined in the Heesom case and others I have adopted a three-stage approach to this.
98. I will firstly consider how this applies to the complaint against Cllr Spooner.
99. The three-stage approach requires first a consideration of whether, regardless of Article 10, the conduct amounts to a failure to comply with the Code. It follows from the above that in respect of the comments made by Cllr Spooner in his email and WhatsApp message to Mr Reading that these do amount to a failure to comply with the Code.
100. The next question is whether any finding of failure to comply with the Code and/or sanction imposed would amount to an interference with Cllr Spooner's Article 10 rights. I believe that it would. It is

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almost inevitable that such a finding and any sanction imposed would interfere with an elected members freedom of speech.

101. The final stage is to consider whether such an interference is justified by reference to Article 10 (2). My view is that it is. The Localism Act provides for the regulation of member conduct so the interference is in accordance with the law. The interference is justified for the protection of the rights and freedom of others namely those disrespected and the public generally to have confidence in the good conduct of those in public office. The interference is also proportionate given the limited sanctions available in respect of such conduct and the limited impact it would have on Cllr Spooner.

102. I have considered whether the comments made by Cllr Spooner amount to political expression which is afforded a high degree of protection. Mr Giles is a journalist writing about and commenting on political matters so must be expected to receive a certain amount of comment on his reporting by those he reports about. However, the comments made by Cllr Spooner which I have found to result in a failure to comply with the Code are merely personal and abusive (“So you can get stuffed” and “pea brained editor”) and cannot be categorised as political expression.

103. As the conduct of Cllr Eyre is very similar to that of Cllr Spooner the same considerations apply in relation to Cllr Eyre’s comments calling Mr Giles a, “grubby little boss.” I reach the same conclusion that the interference with his Article 10 rights is justified and proportionate.

104. As Mr Giles recognised the conduct of both Cllrs Spooner and Eyre is at the lower end of Code breaches and it is disappointing that the members did not recognise that their use of intemperate and disrespectful language was unnecessary and inappropriate and apologise for this at an early stage avoiding the need for an investigation and potentially a hearing.

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Finding

105. My finding is that there has **been a failure** to comply with paragraphs 2(1) and 4 of the Council's Code of Conduct by Cllrs Spooner and Cllr Eyre.

106. I am sending a copy of this report to the Deputy Monitoring Officer of the Council.

Comments on Draft Report

107. I sent a draft of my report to the complainant and Cllrs Spooner and Eyre for their comments. All three responded.

108. Cllr Eyre indicated that he had no further comments.

109. Cllr Spooner responded stating:

I am still unhappy that reference is not made to Cllr Billington's serious illness and my annoyance that Mr Giles was upsetting Richard when he knew that Cllr Billington was very ill. Whilst I understand the reason you omitted that from my witness statement I believe that it is important to the context of events and given that very sadly Cllr Billington has now died from his Cancer I believe that the reasons for omission are no longer relevant as poor Richard is no longer with us.

I do not believe that 48 is wholly true. See separate email from Mr Giles at GDN rejecting a factual correction comment. Perhaps that should be modified to 'most' or 'some' as it depends on whether my comments could be construed as supportive of the editorial position or not.

There may also be a factual correction required. Private Comms between myself and Mr Reading were not just on whatsapp and took several forms including WhatsApp, Messenger and email. I apologise if I misled you by stating only WhatsApp if that is what I did.

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110. I had not made reference to Cllr Billington's illness in my draft report as I did not have his permission to do so and I was concerned about referring to sensitive information about him. Cllr Spooner had indicated that one of the reasons he was so angry about Mr Giles's behaviour was because he had chosen to contact Cllr Billington despite knowing he was seriously ill. This may provide a degree of context and mitigation it does not justify Cllr Spooner's response.

111. Cllr Spooner also sent an email which Mr Giles had sent to him dated 5 April 2022 (SG10). Cllr Spooner stated that this email demonstrated that paragraph 48 of my report was not accurate. I do not think that is the case. In fact the wording of the email appears entirely consistent with Mr Giles's evidence to me.

112. Mr Giles sent detailed comments on the draft report to me and I responded to his comments. Mr Giles sent a further email. I will not detail all of the points raised by Mr Giles but the exchange of emails is attached (SG11). However, he very strongly refutes the views expressed by Cllrs Eyre and Spooner that he has an anti-Conservative stance or agenda.

113. Mr Giles also provided a copy of the Council's Social Media Guidance for Councillors (SG12).

Simon Goacher, Partner
Weightmans LLP
7 June 2022

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Schedule of evidence

SG1	Council Code of Conduct
SG2	Council arrangements for dealing with complaints about members
SG3	Record of Interview of Martin Giles
SG4	Record of Interview of David Reading
SG5	Record of Interview of Cllr Spooner
SG6	Record of Interview of Cllr Eyre
SG7	Complaint form and supporting documents
SG8	Correspondence regarding the complaints
SG9	Email from Guildford Conservative Association to Mr Giles
SG10	Email from Martin Giles to Cllr Spooner
SG11	Emails between Mr Giles and Simon Goacher re draft report
SG12	Social Media Guidance for councillors

Guildford Borough Council

Weightmans reference: SIG/820982/2

**Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre**

SG 1

GUILDFORD BOROUGH COUNCIL

CODE OF CONDUCT FOR COUNCILLORS AND CO-OPTED MEMBERS

PART 1

GENERAL PROVISIONS

Introduction and Interpretation

1. (1) This version of the Code came into effect on 6 October 2020 and applies to you only when acting in your capacity either as a councillor or co-opted (voting) member of the Council or its committees and sub-committees.
- (2) It is your responsibility to comply with the provisions of this Code which will assist the Council in meeting its statutory obligation to promote and maintain high standards of conduct by its councillors and co-opted members in accordance with the following principles:
 - **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.

Definition of terms

- (3) In this Code:

“bully” means to persistently display offensive, intimidating, malicious or insulting behaviour, which may involve an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

“harass” means the undertaking of an act or series of acts which are intended to cause alarm or distress (for example the making of malicious or false assertions, whether publicly or privately) and in the context of a relevant protected characteristic defined in the Equality Act 2010 to display unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

A “disclosable pecuniary interest” is an interest within the prescribed descriptions set out below that you have personally, or is an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners, and you are aware that that other person has the interest:

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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These descriptions on interests are subject to the following definitions;

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

"director" includes a member of the committee of management of an industrial and provident society;

"land" includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

"M" means a member of a relevant authority;

"member" includes a co-opted member;

"relevant authority" means the authority of which M is a member;

"relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31 (7), as the case may be, of the Act;

"relevant person" means M or any other person referred to in section 30(3)(b) of the Act;

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

"meeting" means any meeting of:

- (a) the Council;
- (b) the Executive of the Council;

- (c) any of the Council's or its Executive's committees, sub-committees, joint committees, joint sub-committees or area committees, including any site visit authorised by the Council, the Executive or any of the aforementioned committees.

A "non-pecuniary interest" is an interest which is not a disclosable pecuniary interest (as defined above) but is nonetheless an interest that may in the mind of a reasonable observer affect your objectivity or judgement of the public interest. Examples of non-pecuniary interests include but are not limited to:

- (a) membership of organisations to which you have been appointed or nominated by the Council and in which you hold a position of general control or management, or
- (b) membership or holding a position of general control or management of any body that:
 - exercises functions of a public nature
 - is directed to charitable purposes
 - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
- (4) This Code does not cover matters in respect of which the Localism Act 2011 specifically provides that criminal sanctions will apply.
- (5) A failure of a councillor or co-opted member to comply with this Code is not to be dealt with otherwise than in accordance with arrangements approved by the Council under which allegations of such failure can be investigated and decisions on such allegations can be made. In particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure by a councillor or co-opted member to comply with the Code.
- (6) Councillors may in their individual and personal capacity be subject to legal proceedings from third parties aggrieved by an action which also amounts to a breach of this Code. Councillors should be aware that the legal indemnity provided by the Council to Councillors engaged in the discharge of Council functions is unlikely to cover actions which constitute breaches of this Code.

General Obligations

- 2. (1) You must treat others with respect.
- (2) You must not:
 - (a) do anything which may cause the Council to breach any of the equality enactments;
 - (b) bully or harass any person. Examples of bullying/harassing behaviour include but are not limited to:
 - (i) malicious falsehood, actions (whether by speech, written communication (including by email, text message, etc), or via social media which are intended to cause alarm or distress, spreading malicious rumours, or insulting someone by word or behaviour

- (ii) the broadcast of confidential or private correspondence (whether by forwarding, copying, or reproducing that correspondence in a wider or public forum) where you know or ought to know that it would have the effect of inciting harassment or ridicule or having a detrimental impact on a person's reputation or business
 - (iii) exclusion or victimisation
 - (iv) unfair treatment
 - (v) overbearing supervision or other misuse of power or position
 - (vi) unwelcome sexual advances – touching, standing too close, the display of offensive materials, asking for sexual favours, making decisions on the basis of sexual advances being accepted or rejected
 - (vii) making threats or comments about job security without foundation
 - (viii) deliberately undermining by constant negative criticism rather than to complain to the appropriate manager or supervisor
 - (ix) preventing individuals progressing by intentionally blocking promotion or training opportunities.
- (c) intimidate or attempt to intimidate any person who is or is likely to be:-
- (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a councillor or co-opted member (including yourself) has failed to comply with this code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3. You must not:

- (a) 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 consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (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:
 - (aa) reasonable and in the public interest; and

- (bb) made in good faith and in compliance with the reasonable requirements of the Council¹; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute, or in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by councillors and co-opted members.
5. You:
- (a) must not use or attempt to use your position as a councillor or co-opted member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the Council's resources:
- (i) act in accordance with the Council's reasonable requirements;
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
6. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council's Chief Finance Officer or Monitoring Officer where that officer is acting pursuant to their statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.
7. If you are the subject of a complaint, you have a duty to cooperate with any investigation and to respond promptly and comply with any reasonable requests from the Investigating Officer for such things as interviews, comments on draft meeting/ interview notes or the provision of information necessary for the conduct of an investigation.
8. You must not make trivial, politically motivated, or malicious allegations of misconduct against other councillors.
9. In addition to compliance with this Code of Conduct, you are also expected to comply with:
- (i) the relevant requirements of the Protocol on Councillor/Officer Relations, the Social Media Guidance for Councillors, and the Probity In Planning – Councillors' Handbook, and
- (ii) any reasonable request by the Council that you complete a related party transaction disclosure

¹ Means the councillor should always consult the Monitoring Officer before taking a decision on whether or not to disclose confidential information

PART 2

INTERESTS

Predetermination

10. (1) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as a councillor.
- (2) However, you should not place yourself under any financial or other obligation to outside organisations that might seek to influence you in the performance of your official duties.
- (3) When making decisions you must consider the matter with an open mind and on the facts before the meeting at which the decision is to be made.
- (4) If a councillor considers that they could be biased or they have predetermined their position to a decision, he or she should disclose this and should not take part in the decision-making process whenever it becomes apparent that the matter is being considered.

Registration of Disclosable Pecuniary Interests

11. As a councillor or co-opted member of the Council you must avoid participating in any decision where you could reasonably be seen as having an interest which compromised your honesty or objectivity. Equally you should avoid any action which might reasonably lead others to conclude that you were not acting selflessly or with integrity. In order to assist with this and to promote openness and accountability, the Monitoring Officer must, by law, establish and maintain a register of interests, open for inspection by the public at the Council's offices and publicly accessible on our website:

<http://www.guildford.gov.uk/councillorsearch>

12. You must, before the end of 28 days beginning with the day on which you became a councillor or co-opted member of the Council, notify the Monitoring Officer of any disclosable pecuniary interests which you have at the time when the notification is given. You should be aware that these interests include those of your spouse or civil partner, a person with whom you are living as husband or wife or a person with whom you are living as if they were a civil partner so far as you are aware of the interests of that person. These interests will then be entered on the register of interests.
13. Where you become a councillor or co-opted member of the Council as a result of re-election or re-appointment, paragraph 12 applies only as regards disclosable pecuniary interests not entered in the register when the notification is given.

Disclosure of Disclosable Pecuniary Interests and participation in decision making

14. Subject to paragraphs 29 to 32 (*dispensations*), if you are present at any meeting and you are aware that you have, or any other person referred to in paragraph 12 above has, a disclosable pecuniary interest in any matter that will be, or is being, considered at that meeting, you must, irrespective of whether that interest has been registered:
 - (a) disclose the nature of the interest to the meeting (or, if it is a sensitive interest as described in paragraph 33 below, disclose merely the fact that it is a disclosable pecuniary interest);

- (b) not participate in any discussion or vote regarding that matter; and
- (c) withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.

Where you have not previously notified the Monitoring Officer of that disclosable pecuniary interest you must do so within 28 days of the date of the meeting at which it became apparent.

15. Subject to paragraphs 29 to 32 (*dispensations*), if you are aware that you have, or any other person referred to in paragraph 12 above has, a disclosable pecuniary interest in any matter on which either:

- (a) you are authorised to make decisions, or
- (b) you are consulted by an officer discharging powers delegated to them,

you must not, in relation to (a) above, take any decision on that matter or, in relation to (b) above, participate in any consultation with such officer in respect of that matter

Where you have not previously notified the Monitoring Officer of that disclosable pecuniary interest you must do so within 28 days of the date on which it became apparent.

16. You may participate in any business of the Council where that business relates to the Council's functions in respect of:

- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (ii) 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 a school, unless it relates particularly to the school which the child attends;
- (iii) 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;
- (iv) an allowance, payment or indemnity given to councillors or co-opted members;
- (v) any ceremonial honour given to councillors; and
- (vi) setting Council Tax or a precept under the Local Government Finance Act 1992.

17. You should be aware that it is a criminal offence if, without reasonable excuse, you

- (a) fail to disclose a disclosable pecuniary interest as set out above;
- (b) participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- (c) take any steps as a single member discharging a function of the Council, when you have a disclosable pecuniary interest in a matter you are dealing with
- (d) provide information in relation to your disclosable pecuniary interests that is false or misleading and you know that the information is false or misleading, or are reckless as to whether the information is true and not misleading.

Non-Pecuniary Interests

18. In addition to the disclosable pecuniary interests referred to above, you will have a non-pecuniary interest in any organisation, operating in the borough of which you are in a position of general control or management, even if you were appointed or nominated to that organisation by the Council. This includes public and voluntary sector organisations, such as other councils, schools, charities and some companies. It also includes political parties and campaigning groups.
19. You must, within 28 days of taking office as a councillor or co-opted member notify the Council's Monitoring Officer of your non-pecuniary interests. Any interests you declare will be included in the Council's Register of Interests. You must also notify the Monitoring Officer of any changes in your interests arising after you have completed your initial notification.
20. In accordance with this Council's requirement that you are as open as possible about your decisions and actions, where you have a non-pecuniary interest in any matter to be considered or being considered at a meeting of the Council, the Executive (or any of its committees or sub-committees), a committee, board, sub-committee or joint committee of the Council and you speak at that meeting, you must disclose to that meeting the existence and nature of that interest.
21. You can participate in any discussion and (where applicable) vote on any matter in which you have a non-pecuniary interest unless you consider, having taken advice from the Monitoring Officer, that the interest is one that would affect your objectivity in relation to that matter, in which case you should withdraw from the room or chamber when it becomes apparent that the matter is being considered at that meeting.
22. If you are discharging a function of the Council as a member acting alone (e.g. as a Lead Councillor) or if you are being consulted by an officer discharging powers delegated to them, you will need to consider whether you have a non-pecuniary interest in any matter you are dealing with in the course of discharging that function, or in any matter on which you are being consulted. If you do have such an interest, you must ensure that a record of the existence and nature of the interest is recorded in the decision notice.
23. If, having taken advice from the Monitoring Officer, you consider that the interest is one that would affect your objectivity in relation to the matter, and therefore inappropriate for you to continue to take any steps in relation to the matter, you should not do so (except for the purpose of enabling the matter to be dealt with by someone else).

Acceptance of Gifts and Hospitality

24. As a councillor or co-opted member of the Council you must avoid accepting any gift, hospitality or other favour which could give the impression of compromising your integrity, honesty or objectivity. You should never accept any gift or hospitality as an inducement or reward for anything, if acceptance might be open to misinterpretation or which puts you under an improper obligation. In particular, whenever acting in your capacity as a councillor or co-opted member, you
 - (1) should avoid any behaviour which might reasonably be seen as motivated by personal gain;

- (2) should exercise caution in accepting any gifts or hospitality regardless of value which are (or which you might reasonably believe to be) offered to you because you are a councillor or co-opted member;
- (3) should never solicit a gift or hospitality; and
- (4) should never accept significant gifts or hospitality (i.e. anything with a value of £50 or more) from any third party.

Any declined offer of a gift or hospitality need not be registered.

25. For the avoidance of doubt, the following gifts and types of hospitality do not need to be disclosed/registered:
- (a) civic hospitality provided by the Council or another public authority;
 - (b) modest refreshment in connection with any meeting or on the occasion of any social meeting;
 - (c) tickets for sporting, cultural and entertainment events which are sponsored by, or organised by or behalf of the Council;
 - (d) individual gifts with a value of up to £50, or more than one gift from one donor with a combined value of up to £50
26. Where it is impracticable to return any unsolicited gift of a value of £50 or more, or the return would cause offence, you must as soon as practicable within 28 days after the receipt of the gift, notify the Monitoring Officer in writing, and pass the gift to the Mayor's Office for donation to a charity or raffle as appropriate.
27. You must immediately report to the Monitoring Officer any circumstances where a gift or hospitality has been offered to you or to another councillor in order to gain inappropriate favour.
28. Your participation in any item of business that affects a donor from whom you have received any gift or hospitality that is registered, or ought to be registered as set out above, will need to be considered by you on a case by case basis. You will only be expected to exclude yourself from speaking or voting in exceptional circumstances, for example where there is a real danger of bias, or where you consider, having taken advice from the Monitoring Officer, that acceptance of a gift or hospitality would affect your objectivity in relation to the consideration of that business.

Dispensations

29. A councillor or co-opted member with a disclosable pecuniary interest in a matter may submit a written request to the Monitoring Officer for the grant of a dispensation allowing that councillor or co-opted member to participate in any discussion and/or vote on that matter at a meeting.
30. The Monitoring officer may, after having had regard to all relevant circumstances, grant a dispensation to the councillor or co-opted member only if, he considers that without the dispensation:

- (a) the number of persons prohibited from participating in any particular business in relation to the matter would be so great a proportion of the body transacting the business as to impede the transaction of that business, or
 - (b) considers that without the dispensation each member of the Executive would be prohibited from participating in any particular business to be transacted by the Executive in relation to the matter.
31. The Corporate Governance and Standards Committee may, after having had regard to all relevant circumstances, grant a dispensation to the councillor or co-opted member only if, the Committee considers that:
- (a) without the dispensation the representation of different political groups on the body transacting the particular business would be so upset as to alter the likely outcome of any vote relating to that business, or
 - (b) granting the dispensation is in the interests of persons living in the borough, or
 - (c) it is otherwise appropriate to grant the dispensation.
32. Any dispensation granted must specify the period for which it has effect, and the period specified may not exceed four years.

Sensitive Information

33. (1) Sub-paragraphs (2) and (3) apply where:
- (a) a councillor or co-opted member of the Council has an interest (whether or not a disclosable pecuniary interest), and
 - (b) the nature of the interest is such that the councillor or co-opted member, and the Monitoring Officer, consider that disclosure of the details of the interest could lead to the councillor or co-opted member, or a person connected with that councillor or co-opted member, being subject to violence or intimidation.
- (2) If the interest is entered in the register of interests, copies of the register that are made available for inspection, and any version of the register published on the Council's website, must not include details of the interest (but may state that the councillor or co-opted member has an interest the details of which are withheld under this provision of the Code).
- (3) Where a disclosable pecuniary interest is not entered on the register of interests and would otherwise require disclosure at a meeting, the councillor or co-opted member shall be entitled to merely disclose at the meeting the fact that they have such an interest in the matter concerned.

Removal of entries in the register

34. An entry in the register of interests will be removed once the person concerned:
- (a) no longer has the interest, or
 - (b) is (otherwise than transitorily on re-election or re-appointment) neither a councillor nor a co-opted member of the Council.

Review of the Councillors' Code of Conduct

35. This code of conduct shall normally be reviewed every four years during the year following the Borough Council Elections, and any such review shall involve formal consultation with parish councils within the borough.

Guildford Borough Council

Weightmans reference: SIG/820982/2

Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre

SG 2

GUILDFORD BOROUGH COUNCIL

ARRANGEMENTS FOR DEALING WITH ALLEGATIONS OF MISCONDUCT BY COUNCILLORS AND CO-OPTED MEMBERS

1 Context

- 1.1 Under Section 28(6) and (7) of the Localism Act 2011, the Council, and each Parish Council within the borough area, must have in place arrangements under which allegations that a councillor or co-opted member ('Member') of the Council or relevant Parish Council has failed to comply with the relevant code of conduct (whether of the Council or the relevant Parish Council) can be made, investigated, and decisions can be made on such allegations.
- 1.2 These arrangements for dealing with allegations of misconduct by councillors and co-opted members ('Arrangements') apply when a complaint is received that a Member of the Council or relevant Parish Council has or may have failed to comply with the Code of Conduct for Members ('the Code').
- 1.3 The terms capitalised in these Arrangements are as defined within the text or at paragraph 2, Interpretation, below.
- 1.4 The Council may by resolution agree to amend these Arrangements, and has delegated to the Corporate Governance and Standards Committee the right to depart from these Arrangements where on the advice of the Monitoring Officer the Sub-Committee considers it expedient to do so in order to secure the effective and fair consideration of any matter and is lawful, and is consistent with the principles of natural justice.
- 1.5 The Council shall appoint one or more Independent Persons from outside the Council to assist the Monitoring Officer and the Corporate Governance and Standards Committee in considering complaints, and whose views:
- (a) must be sought by the Council before it takes a decision on any allegation which it has decided shall be investigated,
 - (b) may be sought by the authority at any other stage, and
 - (c) may be sought by a councillor or co-opted member against whom an allegation has been made.
- 1.6 No Member of the Council will participate in any stage of the arrangements if he or she has, or may have, any conflict of interest in the matter.

2 Interpretation

- 2.1 'Assessment Sub-Committee' means the Sub-Committee of the Corporate Governance and Standards Committee constituted in accordance with paragraph 7.6 of these Arrangements.

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- 2.2 'Code of Conduct for Members' means the code of conduct for councillors and co-opted members adopted by the Council, or in relation to a Parish Council the code of conduct adopted by that Parish Council.
- 2.3 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.
- 2.4 'the Corporate Governance and Standards Committee' means the Corporate Governance and Standards Committee or to a sub-committee to which it has delegated the assessment of complaints or the conduct of a hearing unless the context indicates that it refers only to the Corporate Governance and Standards Committee.
- 2.5 'Formal Investigation' means the process described at paragraph 9 of these Arrangements.
- 2.6 'Hearings Sub-Committee' means the Sub-Committee of the Corporate Governance and Standards Committee constituted in accordance with Appendix 3 of these Arrangements.
- 2.7 'Independent Member' means a co-opted person who is not a Councillor or Officer of the Council who sits on the Corporate Governance and Standards Committee in an advisory capacity but who is not entitled to vote.
- 2.8 'Independent Person' means the person (of whom there may be more than one) appointed by the Council under section 28(7) of the Localism Act 2011 who has the functions set out in that Act, as referred to in paragraph 1.5 above.
- 2.9 'Informal Resolution' means the procedure described in these Arrangements at paragraph 8.
- 2.10 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another officer of the Council, an officer of another authority or an external investigator.
- 2.11 'Investigation Report' means the report prepared in accordance with paragraphs 21 to 24 of the Procedure for Local Investigation of Assessed Complaints at Appendix 2.
- 2.12 'Monitoring Officer' means the statutory officer appointed by the Council under the Local Government and Housing Act 1989 Sections 5 and 5A, being the officer of the Council who is responsible for administering the system of complaints about member misconduct and as part of that role may nominate another officer of suitable experience and seniority to carry out any of the functions listed in these Arrangements.
- 2.13 'Parish Member' means a co-opted member of any parish council within the borough who sits on the Corporate Governance and Standards Committee and in respect of parish matters the Assessment or Hearings Sub-Committees in an advisory capacity but who is not entitled to vote at meetings.

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2.14 'Police Reporting Protocol' means the protocol as may be adopted from time to time describing how the Council and the Police will cooperate in the event of the discovery of information or evidence tending toward indicating that a crime has been, or may have been, committed and titled the *Protocol between Guildford Borough Council and Surrey Police regarding the investigation of alleged criminal conduct by Councillors*.

2.15 'Subject Member' means an elected or co-opted member of the Council or any elected or co-opted member of any parish council within the borough against whom a complaint has been made alleging a breach of the Code of Conduct.

3. Making a complaint

3.1 All complaints must be made in writing and shall be on the official complaint form. The complaint form can be posted or e-mailed to the Council's Monitoring Officer whose contact details are:

Monitoring Officer
Guildford Borough Council
Legal Services
Millmead House
Millmead
GUILDFORD
Surrey GU2 4BB
Email: monitoringofficer@guildford.gov.uk
Telephone: 01483 444135

3.2 Complainants who find difficulty in making their complaint in writing (e.g. because of a disability) will be offered assistance. A request for assistance should be made in the first instance by contacting the Monitoring Officer, whether in person, by phone, or email (whether by themselves or by somebody assisting them) using the contact details set out in paragraph 3.1 above.

3.3 A complaint should describe the resolution (whether formal or otherwise) sought, and must provide substantiated information: the Monitoring Officer shall rely wholly on information and evidence accompanying a complaint when conducting the Initial Jurisdiction Test. Further information regarding the range of formal sanctions available is set out in paragraph 27 of Appendix 3.

4. Complaints identifying possible criminality, complainant confidentiality, and anonymous complaints,

Anonymous Complaints

4.1 Anonymous complaints will not normally be investigated, and will only be accepted in exceptional circumstances where the Monitoring Officer (in consultation with the Independent Person) concludes that the balance of the public interest lies in doing so, and the fairness of the procedure is maintained.

Complaints Identifying Possible Criminality

4.2 If the complaint identifies criminal conduct by any person, the Monitoring Officer shall, having regard to the Police Reporting Protocol, make a report to the Police or

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other appropriate investigatory authority, in addition to any action taken pursuant to the Code. In the case of alleged criminal conduct, the complaint may be held in abeyance pending the outcome of any criminal investigation.

Complainant and Witness Confidentiality

- 4.3 If a Complainant or any witness giving any information or involved in any discussions (whether with the Monitoring Officer, the Investigating Officer, the Independent Person, or the Parish Member) wishes their identity to be withheld, they should state this on the complaint form (or, in the case of a witness, in writing to the Monitoring Officer), providing full reasons. Any request for confidentiality will be considered by the Monitoring Officer at the Initial Assessment stage of these Arrangements. In reaching his/her decision, the Monitoring Officer shall have regard to the principles described at paragraph 4.4 below, and may also consult with the Council's Independent Person.
- 4.4 As a matter of fairness and natural justice and in order to preserve the probative value of any evidence given, the Subject Member will usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the identity of a Complainant or witness where the Monitoring Officer is satisfied that the Complainant has reasonable grounds for believing that they, or any witness relevant to the complaint, may be at risk of serious harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed. The Monitoring Officer (in consultation with the Independent Person) will consider whether the public interest in taking action on a complaint outweighs the wish of the Complainant or witness to have his or her identity withheld from the Subject Member, whether the fairness of proceedings is maintained.
- 4.5 Where the Monitoring Officer decides to refuse a request by a Complainant or a witness for confidentiality, they will offer the Complainant the option to withdraw the complaint or the witness to withdraw their witness evidence.

Sensitive and confidential information

- 4.6 Where any decision notice, record, or report (including the report of an Investigating Officer) contains information which is sensitive or confidential, the Monitoring Officer having regard to the Access to Information Procedure Rules at Part 4 of the Council's constitution may redact it in any published version.

5. The Handling of Complaints

Discontinuance of Complaints by Monitoring Officer

- 5.1 The Monitoring Officer may discontinue a complaint or terminate an investigation if they consider it appropriate to do so, having regard to whether the balance of the public interest lies in continuing to action the complaint, where the Subject Member:
- (a) ceases to be a Member of the Council,
 - (b) has a long term or serious illness and is unable to participate in the procedure, or

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(c) dies.

- 5.2 Where a complaint is discontinued, the Monitoring Officer will write to the Complainant and the Subject Member setting out the reasons for their decision.

Timeframes and Communications Policy

- 5.3 The Monitoring Officer will acknowledge receipt of the complaint within 10 working days of all required information being provided.
- 5.4 Key dates in relation to the administration of the Arrangements are set out in the body of the Arrangements, and shall act as targets to facilitate the swift administration of the Arrangements but which, if missed, will not invalidate the procedure comprised herein.
- 5.5 The Complainant and the Subject Member will be informed should there be a delay in completing any stage of the process.
- 5.6 The Communications Policy at Appendix 1 shall have effect in relation to any matters of publicity, or public engagement associated with a Complaint.

Participation of Complainant

- 5.7 Where the Monitoring Officer concludes in consultation with the Independent Person, that the participation of the Complainant (by way of interview, or appearance before Hearings Sub-Committee) would be in the public interest, the Monitoring Officer shall request the further participation of the Complainant, giving reasonable notice, and such support as the Complainant may reasonably require and where the Complainant declines to participate this shall be recorded in the report of any decision or investigation, or reported to the Hearings Sub-Committee (as the case may be).

6. Stage 1 – Initial Jurisdiction Test

- 6.1 The Monitoring Officer will, within 20 working days of the acknowledgement referred to in paragraph 5.3 above, apply the following questions to determine whether a Complaint falls within the jurisdiction of these Arrangements:
- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
 - (b) Was the Subject Member a member of the Borough or relevant Parish Council at the time of the alleged conduct?
 - (c) Was the Subject Member acting in an official capacity as a councillor at the time of the alleged conduct? (The case law and legislative position is that Code of Conduct matters can only be dealt with when the allegation is about something that a Councillor did in his or her role as a councillor when acting in an official capacity.)
 - (d) Did the alleged conduct occur when the Subject Member was acting as a member of another authority, subject to the code of conduct of that authority,

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and not subject to these *arrangements for dealing with allegations of misconduct by Councillors*?

- (e) If the facts were proved would the alleged conduct be capable of constituting a breach of the Code of Conduct?
- (f) Is the complaint limited to dissatisfaction with the Borough or relevant Parish Council's decisions, policies and priorities?

6.2 Where a complaint is rejected on any of the above grounds, the Monitoring Officer will write to the Complainant explaining why their complaint cannot be dealt with under this procedure.

6.3 If the Complaint passes the Initial Jurisdiction Test, it will proceed to stage 2.

7. Stage 2 – Procedure for Initial Assessment of Complaint

7.1 The Monitoring Officer will notify the Subject Member, and if applicable, the Parish Clerk of the existence of the complaint, providing a copy of the complaint and such information as accompanied it (subject to paragraphs 4.3 and 4.4 (confidential complaints)). The documents provided may include necessary redactions in order to maintain any confidentiality that has been agreed by the Monitoring Officer. The Monitoring Officer will invite the Subject Member to submit any comments or information in response within 20 working days of the notification, which the Monitoring Officer will take into account in conducting the Initial Assessment.

7.2 Upon the Subject Member either providing a response, or declining to do so within 20 the working days referred to in paragraph 7.1 (unless extended by agreement with the Monitoring Officer), the Monitoring Officer will provide the complaint, accompanying information or evidence, together with any response provided by the Subject Member, pursuant to paragraph 7.1 above, to the Independent Person and, where applicable, to the Parish Member, allowing a reasonable period for that response to be provided, and asking for their view generally, and on whether the complaint merits Informal Resolution or Formal Investigation.

7.3 Once the Independent Person, and the Parish Member (where applicable) have provided a response, the Monitoring Officer shall (subject to the exception described at paragraph 7.6 below) have regard to that response and to the following criteria in deciding whether a complaint should be subject to Informal Resolution or Formal Investigation:

- (a) The seriousness of the matters alleged;
- (b) Whether a substantially similar allegation has previously been made by the Complainant to the Monitoring Officer (unless sufficient new evidence is provided), or the complaint has been the subject of an investigation by another regulatory authority;
- (c) Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;

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- (d) Whether the evidence is sufficiently reliable, i.e. whether it is first-hand evidence or hearsay evidence, and whether it is relevant to the alleged breach?
- (e) Whether the Subject Member is willing to participate in an Informal Resolution;
- (f) Whether the allegation is anonymous (subject to paragraph 4.6 above);
- (g) Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action; and
 - i) The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;
 - ii) Whether in all the circumstances there is no overriding public benefit in carrying out an investigation;
 - iii) Whether the complaint appears to be trivial, malicious, vexatious, politically motivated or 'tit-for-tat'; or,
 - iv) Whether the complaint relates to a matter which is the subject of a corporate complaint;

7.4 The Monitoring Officer shall in particular have regard to the following mitigating, and aggravating factors:

Mitigating factors (tending to make further action less likely)

- (1) The substance of the complaint has already been the subject of an investigation or other action relating to the Code of Conduct;
- (2) The allegation took place more than 28 days prior to receipt of the complaint and there would be little benefit in taking action now;
- (3) The Subject Member took appropriate advice on the matter and followed that advice;
- (4) 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;
- (5) It is likely that an investigation will prove only a technical or inadvertent breach;
- (6) The complaint appears to be trivial, malicious, vexatious, politically motivated or 'tit-for-tat';
- (7) The Complainant has involved the press in relation to the alleged complaint;
- (8) The member has already provided (or tried to provide) a suitable remedy (such as apologising);
- (9) The breach occurred in all innocence i.e. without knowledge;
- (10) There was unreasonable provocation;

Aggravating factors (tending to make further action more likely)

- (1) The complaint involves allegations of bullying or intimidation of a Complainant;
- (2) The allegation if proven could have a serious effect upon the reputation of the Council or relevant parish council, upon staff relations or upon public trust and confidence;

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- (3) The Subject Member holds a position of seniority and/or a position of influence;
- (4) There is a pattern of individual acts of minor misconduct which appear to be part of a continuing pattern of behaviour that is unreasonably disruptive to the business of the Council or relevant parish council;
- (5) The Subject Member took appropriate advice on the matter but did not follow that advice;
- (6) The complaint involves an allegation that the behaviour may cause the Council or relevant parish council to breach an equality enactment;

7.5 The criteria set out in paragraphs 7.3 and 7.4 above does not limit or fetter the discretion of the Monitoring Officer and is not an exhaustive or prescriptive list and the Monitoring Officer may take into account other criteria dependent on the circumstances. The existence of such criteria does not fetter the discretion of the Monitoring Officer.

Assessment Sub-Committee

7.6 The Monitoring Officer may refer a complaint to the Assessment Sub-Committee for assessment. The referral power is at the absolute discretion of the Monitoring Officer. Examples of when a referral may take place include, but are not limited to the following:

- (1) It is an allegation where there is a perceived or actual conflict of interest e.g. the Monitoring Officer has previously advised the Subject Member on the matter;
- (2) It involves the Mayor or Deputy Mayor of the Council;
- (3) It involves the Leader, a member of the Executive, or the leader of a political group;
- (4) It involves a Chairman or Vice Chairman of a Council Committee or Sub-Committee
- (5) The Complaint is from a Statutory Officer of the Council (the Head of Paid Service, Section 151 Officer, or the Monitoring Officer).

7.7 The Assessment Sub-Committee will be established in the same way as other Sub-Committees of the Corporate Governance and Standards Committee. The Assessment Sub-Committee shall have all the powers of the Monitoring Officer described in paragraph 7. Where the Assessment Sub-Committee finds that a complaint should be subject to Informal Resolution, paragraph 8 shall apply and the Monitoring Officer shall resume responsibility for the progression of the matter

7.8 Decisions of the Assessment Sub-Committee are usually made in private. Neither the Complainant nor the Subject Member will usually be permitted to attend where such meetings contain confidential personal information. In such cases, meetings will not be open to the press or public. The rules covering the exclusion of the press and public are set out in the Access to Information Procedure Rules at Part 4 of the Council's Constitution. If the press and public are to be excluded from a committee or sub-committee, a formal resolution of the meeting is required. This must specify the legal grounds for exclusion.

7.9 The members of any Assessment Sub-Committee will be selected by the Monitoring Officer, in consultation with the Chairman of the Corporate Governance and

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Standards Committee in accordance with paragraph 10.3(b) of Part 2, Article 10 of the Constitution.

Decision in writing

- 7.10 The decision of the Monitoring Officer, or Assessment Sub-Committee (as the case may be) shall be recorded in writing, and a decision notice will be sent to the Complainant and the Subject Member within 10 working days of the decision. The Independent Person shall be given the option to review and comment on allegations which the Monitoring Officer (or Assessment Sub-Committee) is minded to dismiss as being without merit, vexatious, or trivial. The decision notice will summarise the allegation, give the decision of the Monitoring Officer or Assessment Sub-Committee, and the reasons for their decision. There is no right of appeal against the decision of the Monitoring Officer or Assessment Sub-Committee.

8. Stage 3 - Informal Resolution

- 8.1 In appropriate cases, the Monitoring Officer may seek to resolve the complaint without the need for a formal investigation by way of Informal Resolution, which may be appropriate for example:
- (a) Where it is apparent that the Subject Member is relatively inexperienced as a Member or has admitted making an error, was not actuated by any malicious intent, and the matter would not warrant a more serious sanction,
 - (b) Where training or conciliation would be a more appropriate response.
- 8.2 Types of Informal Resolution might include:
- (a) An explanation by the Subject Member of the circumstances surrounding the complaint;
 - (b) An apology from the Subject Member;
 - (c) An agreement from the Subject Member to attend relevant training or to take part in a mentoring process;
 - (d) Offering to engage in a process of mediation or conciliation between the subject Member and the Complainant; or
 - (e) Any other action capable of resolving the complaint.
- 8.3 Where the Monitoring Officer seeks to resolve the complaint informally he or she will provide the Subject Member with recommendation together with a reasonable timescale within which to attempt to resolve the complaint (usually this will be 20 working days following a decision to seek Informal Resolution) or to engage in a process of Informal Resolution organised by the Monitoring Officer.
- 8.4 Before deciding upon a course of action, the Subject Member may seek guidance from the Leader of their political group, the Independent Person, and/or the Monitoring Officer. The Monitoring officer may also seek the Complainant's views to ascertain what form of informal resolution they would find acceptable, particularly if the form of resolution they have specified in their complaint is not possible.

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- 8.5 At the end of the 20 working day period referred to at paragraph 8.3 above the Monitoring Officer will, in consultation with the Independent Person, seek to establish whether the Subject Member has resolved the complaint to the Complainant's satisfaction.
- 8.6 Where it has been possible to agree a form of resolution between the Subject Member and the Complainant, there will be no further action taken in respect of the complaint and the Monitoring Officer will notify both the Complainant and the Subject Member of this decision.
- 8.7 Where it has not been possible to agree a form of resolution between the Subject Member and the Complainant, the Monitoring Officer will decide if the complaint merits formal investigation.
- 8.8 Where the Subject Member makes a reasonable offer of informal resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in his or her decision but may impose the Informal Resolution.
- 8.9 Where Informal Resolution is proposed, the Monitoring Officer may direct that the Subject Member maintains confidentiality as to the matters discussed, and parties involved.

9. Stage 4 – Formal Investigation

- 9.1 Where the Monitoring Officer, or Assessment Sub-Committee decides that a complaint merits investigation, he/she will appoint an Investigating Officer.
- 9.2 The process of appointment and functions of the Investigating Officer are set out at Appendix 2.

10. Stage 5 – Review of Report

- 10.1 The Monitoring Officer will, within 10 working days of the receipt of the Investigating Officer's report prepared in accordance with Appendix 2, review the report.
- 10.2 The Monitoring Officer will, in consultation with the Independent Person, determine whether:
- (a) The report is complete, or (where incomplete) should be referred back to the Investigating Officer or a newly appointed Investigating Officer; or,
 - (b) No further action is required, because the report finds no breach of the code of conduct; or
 - (c) The matter may be reasonably resolved by way of Informal Resolution; or,
 - (d) The matter should proceed to the Hearings Sub-Committee.
- 10.3 Save in respect of the circumstances described in paragraph 10.2 (a) above, the Monitoring Officer will give both the Complainant and the Subject Member a copy of the Investigating Officer's final report, subject to any necessary redactions in respect

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of confidential or sensitive information, and shall notify the Chairman of the Corporate Governance and Standards Committee of his or her decision.

11. **Stage 6 – Hearings Sub-Committee**

- 11.1 Where the Monitoring Officer has determined that the matters should proceed to the Hearings Sub-Committee, Appendix 3 shall apply.

Adopted by the Council on: 24 July 2018 (amended on 6 October 2020)

Communications Policy in relation to Member Complaints

1. The Communications Policy sets out guidelines on what can be communicated during any ongoing complaint. This covers both public statements to the media and communications with the Subject Member and Complainant and, if appropriate, the relevant Parish Council. Any communications shall be under the supervision of the Monitoring Officer who may direct any exception to them, or specific action.

Statements to the Media

2. The Council should communicate in a professional and objective manner. In all cases, the Council's approach to the media should be:
 - (a) open and honest whilst respecting the human rights of those parties involved, and
 - (b) responsive, balanced, and timely
3. All media communications will be made by the Council's Communications and PR Manager, in consultation with the Monitoring Officer and the Chairman of the Corporate Governance and Standards Committee.
4. During the first two stages of the process when a complaint is either the subject of the Initial Jurisdiction Test (Stage 1), or the Initial Assessment Test (Stage 2), it is not usual to make any public statement about a case. However, some matters may be in the public domain at an early stage. Where a statement is sought on an allegation at this stage, the Council should simply confirm or where appropriate deny the fact that an allegation has been received and is being assessed save for circumstances in which a corrective or guiding statement is justified to maintain confidence in the process. Regard should be had as to whether a complainant has sought his or her identity to be maintained as confidential; for example, it may be appropriate not to disclose the existence of a complaint until the Initial Jurisdiction Test has been applied.
5. Where, following assessment, no action is to be taken on a case, public attention should not be drawn to an allegation which is not being pursued. However, where a public statement is necessary, and subject to paragraph 4.8 of the Arrangements, reasons should be given as to further action is being pursued.
6. Where, following assessment some further action is being taken, either the matter is being investigated or some other resolution is being pursued or has occurred, a more pro-active stance may be necessary such as a short statement being made available to confirm the fact, e.g. that an investigation is now underway, and that no further comments will be made until the conclusion of the case. Councillors and officers should not make any comments one way or the other while an investigation is ongoing. All information gathered in the course of an investigation will be regarded as confidential. All parties that are interviewed will be requested to maintain confidentiality and councillors may in particular be referred to their obligation under paragraph 3 of the Code of Conduct not to disclose information that they have received in confidence. Any report issued by an Investigating Officer will be marked "Confidential" to preserve the integrity of any further investigation the Investigating

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Officer may need to carry out. Release of confidential information to the media may lead to an investigation being terminated.

7. Where some other resolution has been reached, this may be made available with the consent of the Subject Member.
8. Where an investigation has been completed and this results in a local hearing, the Corporate Governance and Standards Committee will arrange for a summary of the decision and reasons for that decision to be published on the Council's website.
9. The Corporate Governance and Standards Committee may also make available the minutes and reports of the Hearings Sub-Committee, subject to the advice of the Monitoring Officer.

Procedure for Local Investigation of Assessed Complaint

Appointment of Investigating Officer

1. Following the decision of the Monitoring Officer to investigate the allegation or upon receipt of the referral to the Monitoring Officer from the Assessment Sub-Committee for an investigation, the Monitoring Officer will appoint an Investigating Officer in respect of the allegation and instruct him or her to conduct an investigation of the allegation and to report thereon to the Monitoring Officer.
2. Where the Monitoring Officer acts as Investigating Officer, the role of legal adviser to the Hearings Sub-Committee shall be appointed by him to another individual, whether an internal or external appointee.
3. The Monitoring Officer may at his or her sole discretion make an external appointment to the role of Investigating Officer where for example:
 - (a) The complaint looks likely to raise particularly complex or sensitive issues;
 - (b) There is insufficient expertise within the Council to carry out the investigation;
 - (c) There is insufficient capacity within the Council to carry out the investigation;
 - (d) A conflict has, or may be perceived to have, arisen.

Notification of Investigation to the Subject Member

4. The Monitoring Officer will notify the Subject Member in writing:
 - (a) that the allegation has been referred for local investigation and possible hearing;
 - (b) the identity of the person making the allegation (unless identification of the Complainant might prejudice the investigation or put the Complainant at risk);
 - (c) the conduct which is the subject of the allegation;
 - (d) the paragraph(s) of the Code of Conduct which appear to be relevant to the allegation(s);
 - (e) the procedure which will be followed in respect of the investigation;
 - (f) the identity of the Investigating Officer;
 - (g) the identity of the Independent Person whose views may be sought by the Subject Member; and
 - (h) the identity of the Parish Member whose views may be sought by the Subject Member if the Subject Member is a parish councillor.

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5. The Monitoring Officer shall provide the Subject Member with a copy of the complaint.
6. In very exceptional cases, where the Monitoring Officer has reason to believe that there is a serious risk of intimidation of witnesses or destruction of evidence, the Monitoring Officer may initiate an investigation before notifying the Subject Member, and shall consider whether the matter should be referred to the Police, in accordance with paragraph 4.2 of the Arrangements.

Notification to the Complainant

7. At the same time as notifying the Subject Member, the Monitoring Officer will notify the Complainant in writing of the matters set out above.

Notification to the Corporate Governance and Standards Committee

8. At the same time as notifying the Subject Member, the Monitoring Officer will notify the Chairman of the Corporate Governance and Standards Committee in writing of the matters set out above.

Notification to the Parish Council Clerk

9. Where the allegation relates to the conduct of a Subject Member of a Parish Council in his or her capacity as such, at the same time as notifying the Subject Member, the Monitoring Officer will notify the Clerk of the Parish Council concerned in writing of the matters set out above.

Investigation Process

10. The agreed process may be the standard procedure used by the external investigator. As a minimum, the Investigating Officer will interview the Complainant, the Subject Member and, where possible, any witnesses to the event or events that are the substance of the complaint. The Investigating Officer will produce notes of these meetings that will be signed by the interviewees as fair records of what was said in the interviews. If the complaint is complex, the Investigating Officer may produce formal, signed statements and participants will be notified that the information they have provided could be released into the public domain if the matter proceeds to a hearing.
11. Interviews may be recorded where the Investigating Officer, in consultation with the Monitoring Officer, considers this appropriate.
12. The Monitoring Officer will agree with the Investigating Officer the scope and parameters of the investigation before an investigation starts. However, these may change during the course of an investigation depending on the findings of that investigation. Any changes will be agreed with the Monitoring Officer by the Investigating Officer and this agreement will be documented.

Initial Response of the Subject Member

13. The Monitoring Officer should request the Subject Member to respond to the Investigating Officer in writing within 14 days of notification as follows:

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- (a) advising the Investigating Officer whether the Member admits or denies the breach of the Code of Conduct which is the subject of the allegation;
- (b) listing any documents which the Subject Member would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents and informing the Investigating Officer of where the original documents may be inspected;
- (c) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Subject Member would wish the Investigating Officer to interview in the course of any investigation of the allegation; and
- (d) providing the Investigating Officer with any information which the Subject Member would wish the Investigating Officer to seek from any person or organisation.

Supporting information from the Complainant

14. In notifying the Complainant as above, the Monitoring Officer will request the Complainant to respond to the Investigating Officer within 14 days of notification as follows:
- (a) listing any document which the Complainant would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected;
 - (b) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Complainant would wish the Investigating Officer to interview in the course of any investigation; and
 - (c) providing the Investigating Officer with any information which the Complainant would wish the Investigating Officer to seek from any person or organisation.
15. The Subject Member has a duty to cooperate with any investigation and to respond promptly and to comply with any reasonable requests from the Investigating Officer for such things as interviews, comments on draft meeting/interview notes or the provision of information necessary for the conduct of an investigation.

Confidentiality

16. It is important that confidentiality is maintained throughout the investigation and that details of the complaint are not disclosed to any third party, unless disclosure is to a representative, witness, immediate family members, or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.

Termination of an Investigation

17. In exceptional circumstances, and as is referred to in paragraph 5.1 of the Arrangements, the Monitoring Officer may stop an investigation before it is finished,

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for example where confidential information has been released to the media, if the Subject Member ceases to be a councillor, has a long term or serious illness, or dies and it is deemed no longer in the public interest to pursue the matter further. If the Monitoring Officer stops the Investigation early, he/she will give their reasons to the Subject Member and the Complainant.

18. The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the Monitoring Officer or Hearings Sub-Committee.

Reference to Police or other regulatory agencies

19. At any point in the course of the investigation, if the Investigating Officer is of the opinion the complaint identifies criminal conduct or breach of other regulation by any person, he or she shall notify the Monitoring Officer, who may direct that the investigation is suspended. The Monitoring Officer shall report the matter, as appropriate, in accordance with the Police Reporting Protocol.
20. Where the police or other agency investigates the matter, the Monitoring Officer shall take the advice and direction of the Police in deciding whether and when to inform the Subject Member, the Complainant, the Chairman of the Corporate Governance and Standards Committee and if appropriate the clerk to the relevant Parish Council. Where the Police or other relevant investigating body declines to undertake the investigation, the Monitoring Officer shall instruct the Investigating Officer to resume his or her investigation.

The Draft Report

21. When the Investigating Officer is satisfied that he or she has sufficient information or has obtained as much information as is likely to be reasonably capable of being obtained, he or she shall prepare a draft Investigation Report setting out:
 - (a) the details of the allegation;
 - (b) the relevant provisions of the Code of Conduct;
 - (c) the Subject Member's initial response to the allegation(s) (if any);
 - (d) the relevant information, advice and explanations which he or she has obtained in the course of the investigation;
 - (e) a list and copy of any documents relevant to the matter;
 - (f) a list of those persons whom he or she has interviewed, a copy of the record and any meeting notes and those organisations from whom he or she has sought information;
 - (g) a note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;
 - (h) a statement of his or her draft findings of fact;

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- (i) his or her conclusion as to whether the Subject Member has or has not failed to comply with the Code of Conduct;
 - (j) any recommendations which the Investigating Officer is minded to make to the Hearings Sub-Committee. Where the allegation relates to a parish councillor, such recommendations would be recommendations which the Investigating Officer would recommend the Hearings Sub-Committee make to the relevant Parish Council.
22. The draft Investigation Report should also state that the Investigation Report does not necessarily represent the Investigating Officer's final finding and that the Investigating Officer will be in a position to present a final report to the Hearings Sub-Committee once he or she has considered any comments received on the draft Investigation Report.
23. The Investigating Officer shall then send a copy of his or her draft Investigation Report to the Subject Member and the Complainant and request that they send any comments thereon to him or her within 14 days of the date of that request. The draft Investigation Report will be clearly labelled 'DRAFT' and 'CONFIDENTIAL'.

The Final Report

24. After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend his or her draft report in the light of any comments received and produce and send to the Monitoring Officer his or her final Investigation Report. The report will be clearly labelled 'FINAL' and 'CONFIDENTIAL'.

Appendix 3

Procedure and powers of the Corporate Governance and Standards Committee, and Hearings Sub-Committee

Timing

1. The Corporate Governance and Standards Committee will seek to hold a hearing in relation to an allegation within three months of receiving the Investigation Report. The hearing will be conducted by a Sub-Committee of the Corporate Governance and Standards Committee known as the Hearings Sub-Committee.

Before the hearing

The pre-hearing process

2. The Corporate Governance and Standards Committee will use a written pre-hearing process in order to allow the hearing to proceed fairly and efficiently.
3. The Monitoring Officer will ask the Subject Member to provide the following information within 15 working days:
 - (a) to identify those paragraphs in the Investigating Officer's Report with which the Subject Member agrees, and those paragraphs in the Report with which the Subject Member disagrees and the reasons for such disagreement;
 - (b) to identify any further documentary evidence upon which the Subject Member would like to rely at the hearing;
 - (c) to ascertain if they are going to attend the hearing and if they are going to represent themselves or whether they are going to employ someone to represent them, in which case they should provide the details of their representative prior to the hearing;
 - (d) to give reasons whether the whole or any part of the hearing should be held in private and whether any of the documentation supplied to the Hearings Sub-Committee should be withheld from the public.
4. The Monitoring Officer will ask the Investigating Officer to comment on the Subject Member's response within 15 working days to say whether or not he or she:
 - (a) will be represented at the hearing;
 - (b) wants to call witnesses to give evidence to the sub-committee;
 - (c) wants any part of the hearing conducted in private and why;
 - (d) wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public and why.

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5. The Monitoring Officer will endeavour to accommodate the availability of the parties (including the Complainant attending the hearing before notifying the parties of the date, time and place for the hearing).

The Hearing

Preliminary

6. The members of the sub-committee will be selected by the Monitoring Officer after having consulted the Chairman of the Corporate Governance and Standards Committee, noting the restrictions of paragraph 1.6 of the Arrangements above, and in accordance with paragraph 10.4 (b) of Part 2, Article 10 of the Constitution.

Notification of the Hearing

7. The Monitoring Officer shall ensure that, when the agenda for the Hearings Sub-Committee is sent out to members of the Hearings Sub-Committee, including the final report, the agenda and the report are also sent at the same time to:
 - (a) the Subject Member
 - (b) the Complainant;
 - (c) Witnesses; and
 - (d) the Clerk to the relevant Parish Council if the Subject Member is a parish councillor.
8. The Hearings Sub-Committee will be convened to determine the outcome of the Complaint and shall follow the Order of Business set out below.

The Order of Business

9. The order of business will be as follows, subject to the Chairman exercising discretion and amending the order of business where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter:
 - (a) Election of a Chairman.
 - (b) Apologies for absence and notification of substitutes.
 - (c) Declarations of interests.
 - (d) In the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing.
 - (e) Introduction by the Chairman, of Members of the Hearings Sub-Committee, the Independent Person, the Parish Member (if the complaint involves a parish councillor), the Monitoring Officer or Legal Advisor to the Sub-Committee, Investigating Officer, Complainant(s) and the Subject Member and their representative (if appointed).

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- (f) To receive representations from the Monitoring Officer, the Investigating Officer and Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press (subject to Part 1 of Schedule 12A Local Government Act 1972 (as amended)).
- (g) To determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press (subject to Part 1 of Schedule 12A Local Government Act 1972 (as amended)), and the reasons for such an exclusion.
- (h) Conduct of the Hearing. The Hearings Sub-Committee may adjourn the hearing at any time.

Presentation of the Complaint

- 10. The Investigating Officer presents their report including any documentary evidence or other material and calls any complainant witnesses.
- 11. The Hearings Sub-Committee will give the Subject Member the opportunity to ask any questions regarding the evidence presented through the Chairman. This is not cross examination but an opportunity to ask questions/points of clarification on the evidence presented at the hearing.
- 12. The Hearings Sub-Committee may question the Investigating Officer upon the content of his or her report and any complainant witnesses. This is not cross examination but an opportunity to ask questions/points of clarification on the evidence presented at the hearing.

Presentation of the Subject Member's case

- 13. The Subject Member or their representative presents their case and calls their witnesses.
- 14. The Hearings Sub-Committee will give the Investigating Officer the opportunity to ask any questions regarding the evidence presented through the Chairman.
- 15. The Hearings Sub-Committee may question the Subject Member upon the contents of their case and any Subject Member witnesses.

Summing up

- 16. The Investigating Officer sums up the complaint.
- 17. The Subject Member or their representative sums up their case.

Deliberations of the Hearings Sub-Committee

- 18. The Hearings Sub-Committee will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor, and taking the view of the Independent Person and the Parish Member (where applicable) who shall be entitled to retire to consider their view) to consider whether on the facts found, the Subject Member has failed to comply with the Code of Conduct.

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19. The Hearings Sub-Committee may, at any time, come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Hearings Sub-Committee cannot be presented, then the Hearings Sub-Committee may adjourn the hearing and issue directions as to the additional evidence required and by whom.
20. The Hearings Sub-Committee will make its decision on the balance of probability, based on the evidence before it during the hearing.
21. Where the complaint has a number of aspects, the Hearings Sub-Committee may reach a finding, apply a sanction and /or make a recommendation on each aspect separately.
22. Having deliberated on its decision the Hearings Sub-Committee will reconvene the hearing in public and the Chairman will announce that, on the facts presented, the Hearings Sub- Committee considers that there has been a breach of the Code of Conduct, or no breach, as the case may be.
23. If the Hearings Sub-Committee considers that there has been **no breach of the Code of Conduct**, the Sub-Committee will set out the principal reasons for the decision. The Chairman will also announce that the Sub-Committee's full decision and reasons will be issued by the Monitoring Officer, in writing, within approximately 10 working days following the close of the hearing.
24. If the Hearings Sub-Committee decides that there has been a **breach of the Code of Conduct**, the Chairman will announce the principal reasons for the decision.
25. The Chairman will then invite the Investigating Officer and the Subject Member, to make their representations as to whether any sanction(s) or recommendations should be applied and what form any sanction(s) or recommendation(s) should take. In reaching its decision, the Hearings Sub-Committee may make any recommendations it considers may facilitate and enhance ethical standards within the relevant authority, noting the list at paragraph 28 below.
26. Having heard the representations/views, the Hearings Sub-Committee will adjourn with the legal adviser and deliberate in private. The Independent Person and the Parish Member (if appropriate) shall express their view in private session and shall be entitled to retire to consider their view beforehand.
27. Having deliberated on the suggested sanctions and/or recommendations(s) and the application of any sanctions(s), and having taken into account the Independent Person's views and those of the Parish Member if the complaint relates to a parish councillor, the Hearings Sub-Committee will reconvene the hearing and the Chairman will announce:
 - (a) whether any sanctions are to be applied (sanctions can only be recommended if the Subject Member is a parish councillor).
 - (b) Whether any recommendations will be made to the Borough or Parish Council or the Monitoring Officer.

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- (c) That the Sub-Committee's full decision and reasons will be issued by the Monitoring Officer, in writing, within approximately 10 working days following the close of the hearing.
- (d) That the decision will be published on the Borough Council's website; and
- (e) That there is no internal right of appeal against the Hearings Sub-Committee's decision(s) and/or recommendations(s).

Range of Possible Sanctions

28. The Corporate Governance and Standards Committee has delegated to the Hearings Sub-Committee such of its powers to take action in respect of the Subject Member as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearings Sub-Committee may:

- (a) Publish and report its findings in respect of the Subject Member's conduct (or recommend to the relevant Parish Council that it does so);

And it may

- (b) Report its findings to Council (or to the Parish Council) for information;
- (c) Censure the Member;
- (d) Recommend to the Subject Member's political group leader (or in the case of an un-grouped Subject Member, recommend to Council) that they be removed from any or all Committees or Sub-Committees of the Council for a specified period;
- (e) Recommend to the Leader of the Council, in the case of an Executive Subject Member, that the Subject Member be removed from the Executive, or removed from particular portfolio responsibilities for a specified period;
- (f) Instruct the Monitoring Officer (or recommend to the relevant Parish Council) that the Subject Member be requested to participate in appropriate training or participate in conciliation and/or mediation; and where the Subject Member does not cooperate, the Monitoring Officer shall report the matter to the Chair of Corporate Governance and Standards who shall cause a meeting of the Hearings Sub-Committee to take place with the purpose of resolving to apply an alternative sanction;
- (g) Recommend to Council or the Leader of the Council (in the case of appointments by the Executive) or the relevant Parish Council that the Subject Member be removed from all or particular outside appointments to which they have been appointed or nominated by the Council or by the relevant Parish Council for a specified period (in which case the meeting of the Council or relevant Parish Council to consider the proposed removal shall do so on the basis of the report alone, and shall not re-hear the matter);
- (h) Withdraw, or recommend to the relevant Parish Council that it withdraws facilities provided to the Subject Member by the Council, such as a computer, website and/or e-mail and internet access for a specified period;

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- (i) Exclude, or recommend that the relevant Parish Council excludes the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings and public areas;
- (j) Issue a formal letter of advisement as to future conduct to the Subject Member;
- (k) Request that Subject Member should tender an apology to such persons as were aggrieved by his or her actions;
- (l) Where the Monitoring Officer and Independent Person are not satisfied that the Subject Member has tendered the apology described at 27.11 the Monitoring Officer shall report the matter to the Chair of Corporate Governance and Standards who shall cause a meeting of the Hearings Sub-Committee to take place with the purpose of resolving to apply an alternative sanction.

The Hearings Sub-Committee cannot suspend a Subject Member, withdraw a Subject Member's allowance, impose financial penalties, award compensation or make an award of costs.

Matters to Consider when Applying a Sanction

29. When deciding whether to apply one or more sanctions referred to above, the Hearings Sub-Committee will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour and that any sanction does not unduly restrict the Subject Member's ability to perform the functions of a councillor. The Hearings Sub-Committee will consider the following questions along with any other relevant circumstances raised at the hearing:
- (a) What was the Subject Member's intention and did they know that they were failing to follow the Borough or Parish Council's Code of Conduct?
 - (b) Did the Subject Member receive relevant advice from officers before the incident and was that advice acted on in good faith?
 - (c) Has there been a relevant breach of trust?
 - (d) Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
 - (e) What was the result/impact of failing to follow the Borough or Parish Council's Code of Conduct?
 - (f) How serious was the incident?
 - (g) Does the Subject Member accept that they were at fault?
 - (h) Did the Subject Member apologise to the relevant persons?

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- (i) Has the Subject Member previously been warned or reprimanded for similar misconduct?
- (j) Has there been a relevant previous breach by the Subject Member of the Borough or Parish Council's Code of Conduct?
- (k) Is there likely to be a repetition of the incident?
- (l) Was it a deliberate breach of the code or was it inadvertent (i.e. the Member thought that he/she was acting in a private capacity)? If capacity is an issue, the Hearings Sub-Committee will need to give reasons for its decision that the Subject Member was or was not acting publicly.

The written decision

30. The Chairman will announce its decision on the day. The Monitoring Officer will issue a full written decision approximately 10 working days after the end of the hearing to:
- (a) The Subject Member;
 - (b) The Complainant;
 - (c) Any witness; and
 - (d) The clerk to any Parish Council concerned.

Making the findings public

31. The Monitoring Officer will also arrange for a decision notice to be published as soon as possible on the Council's website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.
32. If the Hearings Sub-Committee finds that a Subject Member did not fail to follow the relevant authority's Code of Conduct, the public summary must say this, and give reasons for this finding.
33. If the Hearings Sub-Committee finds that a Subject Member failed to follow the Code of Conduct, but that no action is needed, the public summary must say that the Subject Member failed to follow the Code of Conduct, outline what happened and give reasons for the Hearings Sub-Committee's decision not to take any action.
34. If the Hearings Sub-Committee finds that a Subject Member failed to follow the Code of Conduct and it sets a sanction, the public summary must say that the Member failed to follow the Code of Conduct, outline what happened, explain what sanction has been set and give reasons for the decision made by the Hearings Sub-Committee.

Costs

35. Subject Members are responsible for meeting the cost of any representation at a Hearings Sub-Committee meeting from their own finances and not those of the Council. The Hearings Sub-Committee cannot make orders as to costs. Neither the

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Borough Council nor a Parish Council can contribute to the Subject Member's costs or the Complainant's costs or indemnify a Subject Member or Complainant against costs which he or she may incur.

Appeals

36. There is no right of appeal for a Member against a finding by the Hearings Sub-Committee following a hearing.

Variation

37. The Monitoring Officer or the Hearings Sub-Committee on the advice of the Monitoring Officer, in consultation with the Chairman of the Corporate Governance and Standards Committee, may vary this procedure in any particular instance where he or she or they is/are of the opinion that such a variation is expedient in order to secure the effective and fair consideration of any matter, is lawful, and is consistent with the principles of natural justice.

Guildford Borough Council

Weightmans reference: SIG/820982/2

Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre

SG 3

Ref: 820982/2

Complaints about Councillors Spooner and Eyre- Guildford Borough Council

Note of interview with Martin Giles, 22 March 2022

1. The interview was conducted by Simon Goacher, Weightmans LLP ("SG").
2. SG explained that he had been instructed by the deputy monitoring officer of Guildford Council ("the Council") to investigate the complaints which had been made about Cllrs Spooner ("PS") and Eyre ("GE").
3. SG explained the process. He explained that the process was confidential but if the matter proceeded to a hearing then the complaint details could be published including this note of the interview.
4. Martin Giles ("MG") confirmed that he had made the complaints against PS and GE. he had been told that the complaint could only have one name associated with it but GBC knew of GDN reporter David Reading's (DR) involvement and position. MG confirmed that he wished to pursue the complaints and that the contents were true and accurate as far as he was concerned.
5. MG explained that he is the editor of The Guildford Dragon NEWS ("GDN"). He stated that there has been a difficult relationship between GDN and PS. MG stated that at the time of events which gave rise to the complaints PS was willing to answer questions from GDN. MG stated that he went to a second person for corroboration of the answers. MG stated that it was not that he did not believe what PS said but not understand the answers He stated that there was also a time pressure because of the nature of the story.
6. MG stated that there were two reasons he went to someone else. He stated that firstly it is always good to get corroboration from a second source, if possible. He stated that secondly, and mainly, PS had described the vote result as being 8:1 which contradicted what he had been told by someone else. Another reason was to improve chance of a speedy response.
7. SG asked MG if GDN had published that the vote had been 5:4; he explained that this had been referred to and the story on the GDN website stated "The election was uncontested. [This has been clarified since this story was first published.]" MG stated that he did not believe that they had published that, though they may have done and then clarified it. [subsequesnt check indicates it was not published as 5:4.] He stated that Cllr Billington ("RB") had corroborated the vote details given by PS but he thought this had been done over the telephone and so he did not have that in writing. He stated that RB explained that there had not been another candidate but the vote was 8:1 because one person had not voted for PS.
8. MG stated that at the same time that he contacted RB, DR had contacted PS for further clarification and PS's response was part of the basis of the complaint
9. MG stated that he discussed the story with DR. He explained that DR sent the questions to PS and when he got the response they were not clear on the voting. MG stated that he told DR that he would contact other councillors to find out and DR went back to PS.

10. SG stated that there had been reference to MG publishing a story on the word of someone who was not even at the meeting where the vote had taken. MG stated that the suggestion that the vote had been 5/4 may have come from someone who was not there but that was why they had sought corroboration of the story.
11. SG stated that GE had stated that his email correspondence with DR had been from his personal email address and was purely personal. MG stated that it related solely to Council business and he did not think that just because it was sent from his personal email it meant that the Code did not apply.
12. SG stated that PS had raised the point that the WhatsApp messages referred to in the complaint were a small sample of those exchanged between him and DR and had been taken out of context. MG stated that he did not think that he had seen any others. [I have subsequently checked my email and cant find further messages from the trail.]
13. MG stated that following the complaint PS had cut off all communications with GDN which made it difficult for GDN to report on the Conservative Group's views. He stated that they now have to go through the Guildford Conservative Association ("GCA"). MG stated that GCA had apologised for retweeting PS's tweet which referred to GDN as a "seedy rag". [Record of the apology sent separately.]
14. MG stated that the GDN relationship with PS had been off and on for some time and depended on whether he liked the last article they had written. He stated that PS has refused to communicate with GDN for nine months now. MG stated that GDN do still publish comments from PS as he wanted to report Conservative views; it is PS not wanting to talk to GDN.
15. MG stated that all he had asked for was a public apology from PS and a private apology from GE. He stated that he had also offered a resolution involving the publication of the informal decision of the deputy monitoring officer so people could make up their own minds. He stated that he did not think that council tax payers money should be spent on this.
16. SG asked why MG had identified [REDACTED] as a witness. MG explained this was because she took down the retweet of PS's tweet and apologised.
17. MG stated that he wished to stress the typo in his text to RB but stated that it was obvious as the text would not have made sense otherwise.
18. MG stated that he believed that this was a simple matter and the Councillors' Code had been breached. He stated that he accepted that it was not the biggest thing in the world and there should be an apology and everyone could move on.

I agree that this is a true and accurate record of the interview.

Signed: Martin Giles
MARTIN GILES

Dated: 17 April 2022

Guildford Borough Council

Weightmans reference: SIG/820982/2

Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre

SG 4

Ref: 820982/2

Complaints about Councillors Spooner and Eyre- Guildford Borough Council

Note of interview with David Reading, 23 March 2022

- 1 The interview was conducted by Simon Goacher, Weightmans LLP ("SG").
- 2 SG explained that he had been instructed by the deputy monitoring officer of Guildford Borough Council ("the Council") to investigate complaints which had been made about Cllrs Spooner ("PS") and Eyre ("GE").
- 3 SG explained the process. He explained that the process was confidential but if the matter proceeded to a hearing then the complaint details could be published including this note of the interview.
- 4 David Reading ("DR") confirmed that he worked as a part time reporter for the Guildford Dragon News ("GDN"). He stated that he reports for the Ash area.
- 5 DR stated that the story about PS's re-election as leader of the Conservative group on the Council was Martin Giles's ("MG") story. DR explained that MG was the editor of the GDN. DR stated that this came about after PS posted on twitter his thanks to colleagues for voting him in as leader at the group AGM.
- 6 DR explained that because he got on with PS MG asked him to email PS a series of questions. DR stated that he did this on 25 June 2021. DR stated that PS replied on the same day with quite sensible answers to the questions which he filed with MG. DR stated that MG had one or two queries on the answers because he felt that it left unanswered questions. DR stated that MG contacted Cllr Richard Billington ("RB") to confirm and corroborate some of PS's answers. DR stated that this was the flashpoint.
- 7 DR stated that it was clear from PS's subsequent emails to him that he was seriously unimpressed that MG had sought "collaboration" of what he had said. DR stated that it was perfectly normal to seek corroboration of information provided. This did not mean that there was any suspicion that PS's answers were untrue. DR stated that there had been a genuine typo in MG's message to RB referring to PS being untruthful. He stated that it was perfectly normal for MG to check the facts were correct.
- 8 DR stated that he could not get inside PS's mind so could not say if he was upset with him or GDN. He stated that he had tried to contact PS since about other matters but PS had said that he wanted nothing more to do with GDN, though he had given a quote on an issue in the area as he wanted to clarify something. DR stated that PS was a good contact so it was a pity it had gone down this route. DR stated that he did believe the action taken by MG in making the complaint was solid as the responses from PS and GE had been unreasonable and he was fully supportive of MG's complaints.
- 9 SG asked DR about the WhatsApp messages as PS had stated that the selection referred to in the complaint was selective. DR stated that he would have sent all messages to MG. DR stated that if PS had other messages relevant to the way he acted he could presumably provide them.

- 10 DR stated that he had no strong views on GE at all. He stated that GE's comments about the GDN referring to grubby people and a grubby little paper were unpleasant.
- 11 SG asked DR about why the email exchange between him and GE was using GE's personal rather than Council email account. DR stated that he was sure that GE would have initiated this exchange. DR explained that prior to becoming a councillor GE had been chair of the local residents' association so DR would have used his personal email address to contact him then but would have thought he would have used GE's Council email address if he contacted him about Council issues.

I agree that this is a true and accurate record of the interview.

Signed by D. Reading

David Reading

Dated 19/04/2022

Guildford Borough Council

Weightmans reference: SIG/820982/2

Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre

SG 5

Ref: 820982/2

Complaints about Councillors Spooner and Eyre- Guildford Borough Council

Note of interview with Cllr Paul Spooner, 28 March 2022

- 1 The interview was conducted by Simon Goacher, Weightmans LLP ("SG").
- 2 SG explained that he had been instructed by the deputy monitoring officer of Guildford Borough Council ("the Council") to investigate a complaint which had been made about Cllr Spooner ("PS").
- 3 SG explained the process. He explained that the process was confidential but if the matter proceeded to a hearing then the complaint details could be published including this note of the interview.
- 4 PS explained that he is an elected member of the Council and had been since 2013. He stated that he had been a councillor of Ash Parish Council since 2011. He confirmed that he is leader of the opposition on the Council and had been leader of the Council between 2015 and 2019.
- 5 PS stated that there had been an interesting relationship between the Conservative group on the Council and the Guildford Dragon News ("GDN"). He stated that GDN was an online news/blog site which had operated for around 10 years.
- 6 PS stated that he likes to be fair. He stated that Martin Giles ("MG"), the editor of GDN, has political leanings which are not to the Conservative party. PS stated that MG edits comments made by councillors and this can be done in a number of ways. PS stated that it is not just Conservative councillors who have complained about the way MG has edited things. PS stated that MG responds by saying that national news organisations edit but PS stated that the national newspapers do not hold themselves out as being unbiased.
- 7 PS stated that he has always had an excellent relationship with David Reading ("DR") of GDN. PS stated that DR is an excellent community spokesperson who makes every effort to understand a story before presenting it to the editor. PS stated that DR does not have the final say on stories though.
- 8 PS stated that he had not been clear on whether MG had been making a complaint on behalf of GDN or just in his capacity as a journalist.
- 9 PS explained the history of the process. He stated that on 25 June 2021 he received an email from DR to his Council email address. He stated that the subject was his re-election as leader of the Conservative group. PS stated that in the email DR asked a series of questions which were absolutely fine. He stated that he saw no reason not to answer those questions which he did and thought that would be the end of it.
- 10 PS stated that later that evening he received a telephone call from Cllr Billington ("RB"). PS stated that RB read out a text which he had received from MG. PS stated that he had been very unhappy to receive that call and RB had been unhappy that MG had questioned PS's truthfulness. PS stated that MG had been dismissive about this saying later it was a typo in his text but it was not surprising that RB had felt that it was

rudely and directly questioning PS's integrity at the time. PS stated that he accepted, after receiving the complaint form some days later, that it was an error.

- 11 PS stated that he thought that MG should have apologised to him. He stated that set the context for what happened next. He stated that DR contacted him the following day and PS's response had been very curt as he had been very unhappy. He stated that he did not swear or use any expletives. He stated that it was sent to a journalist not a resident as the contact from DR was as a journalist. He stated that considering what had gone on he still felt that it was quite measured.
- 12 PS stated that even if his answers to DR's questions had been answered in an inappropriate or inaccurate way (which they were not) they should have been published without going to check the facts. PS stated that GDN circulate responses to opposition councillors sometimes to create scandal.
- 13 PS stated that he was unhappy that he had answered the questions put to him honestly and fairly but that they had then been touted around others; he knew about them contacting RB but did not know who else had been contacted. PS stated that DR had referred to someone else clarifying. PS stated that group meetings were private. He stated that he felt that the process of dealing with the questions had been flawed on a journalistic level.
- 14 PS stated that he then had further email correspondence with DR and he had not pulled any punches.
- 15 PS stated that it had been proposed by MG that a solution would be to publish the complaint as resolution. PS stated that he agreed this in principle so long as he had a right of reply but the deputy monitoring officer said no the GDN did not accept that. He stated that he did not see how anyone could possibly agree to that proposal.
- 16 PS stated that there had been 200 WhatsApp messages between hm and DR. he stated that out of professional fairness he would not disclose all of these.
- 17 PS stated that he did send a private WhatsApp message to DR which referred to GDN as a "rag" and MG as its "pea brained editor". He stated that this was not in public and he would not publish WhatsApp messages and was disappointed that DR had shared it. He stated that if he had made those comments in the public arena he would have withdrawn them or apologised.

I agree that this is a true and accurate record of the interview and the contents are true to the best of my knowledge and belief.

Paul Spooner

Signed.....

Cllr Paul Spooner

22nd April 2022

Dated.....

Guildford Borough Council

Weightmans reference: SIG/820982/2

Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre

SG 6

Ref: 820982/2

Complaints about Councillors Spooner and Eyre- Guildford Borough Council

Note of interview with Cllr Graham Eyre, 28 March 2022

- 1 The interview was conducted by Simon Goacher, Weightmans LLP ("SG").
- 2 SG explained that he had been instructed by the deputy monitoring officer of Guildford Borough Council ("the Council") to investigate a complaint which had been made about Cllr Eyre ("GE").
- 3 SG explained the process. He explained that the process was confidential but if the matter proceeded to a hearing then the complaint details could be published including this note of the interview.
- 4 GE explained that he was an elected member of the Council and had been since 2019. He confirmed that he had received training on the Code of Conduct.
- 5 GE explained that he had known David Reading ("DR") a part time reporter for the Guildford Dragon News ("GDN") for a lot of years. He explained that before he became a councillor he had been Chairman of Ash Residents' Association ("ARA") and he got on well with DR. He stated that when he had been Chairman of the ARA DR had contacted him if there was any story which he thought the ARA would have an interest in.
- 6 GE stated that Martin Giles ("MG"), the editor of GDN, is a tory baiter who hates Conservatives and loves to wind them up and print untruths. GE stated that he felt MG had gone too far and his article basically called Cllr Spooner ("PS") a liar.
- 7 GE stated that he sent an email to DR saying what he thought of MG. GE stated that it was his personal opinion about MG. He stated that it basically went from there. He stated that it was a personal email which he sent to someone he had known for 15 years; it was a comment and that was it. He stated that the email was not directed to MG. He stated that there was no way he was going to apologise for something he didn't even say to the guy.
- 8 GE explained that the issue arose because previously there had been a split in the Conservative group on the Council and this went on for some time. He stated that they wanted to resolve it and reform as one group. He explained that they had their first group meeting in quite a while with all councillors. He stated that there had been two groups with separate leaders. He stated that it was decided at the meeting that PS would be the leader of the newly reformed group. He stated that everyone there was in favour of PS being the leader.
- 9 GE stated that news of this got to MG and he produced an article saying that it was not a unanimous vote. He stated that PS had told MG that it was unanimous. GE stated that MG produced an article saying that what PS had said was not true. GE stated that MG had not been there and no one MG knew had been there but he was basically saying that PS was lying. GE stated that had been the last straw for PS as it came on top of a lot of stories in the GDN which had not been nice about the Conservative group.

10 GE stated that he could have sent something to MG telling him what he thought about him but he had sent a personal email to DR which had been less than complimentary about MG. He stated that he had not intended for DR to pass it to his boss. He stated that it was one of those things; what people do with emails you send to them is out of you hands. He stated that he was not sorry that he had sent the email.

I agree that this is a true and accurate record of the interview and the contents are true to the best of my knowledge and belief.

Signed...G. L Eyre.....
Cllr Graham Eyre

Dated.....22nd April 2022.....

Guildford Borough Council

Weightmans reference: SIG/820982/2

Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre

SG 7

Form Submission

Code of Members Conduct Complaint Form

Your Details	
Title	Mr
First name(s)	Martin
Last name	Giles
Email address	
Daytime telephone	
Line 1	
Line 2	
Line 3	
Town	
County	
Postcode	
Please tell us which complainant type best describes you:	Other
Label	
Please specify*	Member of the press
Details of your complaint	
Please see our list of councillors and parish councillors .	
Please enter the name(s) of the councillor(s) who you are making this complaint about	Cllrs Paul Spooner and Graham Eyre
Date of the alleged incident. Please give a general timeframe if you can't provide exact dates.	Saturday, June 26 and Sunday, June 27, 2021
View the councillor code of conduct .	
Please indicate the paragraph numbers of the code of conduct which have been breached	Section 2 (1) "You must treat others with respect." Section 4 "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute, or in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by councillors and co-opted members."

Please explain what the councillor is alleged to have done that you believe breaches the code of conduct. If you are complaining about more than one councillor you should explain clearly what each individual person is alleged to have done, with dates and witnesses to support the alleged breach.

- You should be specific about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor insulted you, you should state what it was he or she said or did to insult you.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).
- If the incident(s) about which the allegation(s) are being made occurred over 28 days ago, clearly explain why the complaint was not made during that period of time.

Please provide us with the details of your complaint

Background

On Friday (June 25) following a report received, David Reading sent a set of written questions to Cllr Spooner about his re-election as leader of GBC's Conservative group.

Before a response from Cllr Spooner was received, we received other information that it was thought his election was uncontested.

In one of his responses, he said that he had won a vote on his nomination as leader 8-1 at the Conservative's group AGM. This left a question about the "uncontested" claim, ie was there another candidate and the "uncontested" claim incorrect or, if it was uncontested, who or what was the 1 vote for?

David Reading sent a follow-up question to Cllr Spooner for clarification and I, in order to improve the chance of a speedy resolution, sent a text message to Cllr Richard Billington, another Conservative group member, presumably present at the AGM.

Unfortunately, the text message included a typo. It should have read "but I can't" not "but I can" although the context makes the typo obvious.

See image 1 - Text to Richard Billington

In the event, I missed a response telephone call from Cllr Billington, and we published the story, reporting the uncorroborated claim (which had come from a reliable, well-informed source) as a rumour (there was nothing defamatory about it, just the apparent contradiction).

Later at 1733hrs David Reading received the following email from Cllr Spooner (I think he meant corroboration rather than "collaboration"):

See image 2 - Email from Paul Spooner to David Reading

A further response from Cllr Spooner to David Reading was sent by What's App:

See image - 3 What's App message from Paul Spooner to David Reading

Later two emails, also to David Reading, were received from Cllr Graham Eyre (please note the earliest email in the trail is at the bottom):

See image 4 - Emails from Graham Eyre

In the meantime, Cllr Spooner published a message on Twitter which was retweeted by the Guildford Conservative Association:

See image 5 - first Tweets on the subject from Paul Spooner

The questions and answers were not "circulated" to other group members, just Richard Billington. And, of course, making checks and obtaining corroboration is basic journalism.

On Sunday (June 27) Cllr Spooner Tweeted again in response to a question from Cllr James Walsh "What's this all about Paul?":

See image 6 - second relevant Tweet from Paul Spooner.

Details of witnesses:

I am including them here as the system will not accept them in the field below

Dragon reporter David Reading
Cllr James Walsh
Chair of Guildford Conservative Association
(via:)
Cllr Richard Billington

Details of witnesses

See above

It is important that you provide supporting evidence you wish to have taken into account by the Monitoring Officer when they decide whether or not to take any action on your complaint.

Please note the total file size of all documents attached to this form must not exceed 5MB. If your documents exceed this limit, please contact monitoringofficer@guildford.gov.uk or send them by a secure method. Please note, we do not accept responsibility for documents in transit.

Supporting evidence

Image 6 Twitter response from PS to JW.JPG ([download](#))

Openness

In the interests of fairness and in compliance with the rules of natural justice, we believe councillors who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against him/her.

Your name and the details of your complaint may be sent to the councillor and the clerk of the parish council (where the councillor is a parish councillor). Your name and the details of

your complaint may be withheld if you can demonstrate very exceptional circumstances.

Very exceptional circumstances are where disclosure would be contrary to the public interest or would prejudice a person's ability to investigate the allegation and may include, for example:

- where you believe you may be victimised or harassed by the councillor(s) against whom you are submitting a written complaint; or
- where you believe you may receive less favourable treatment from the Council because of the seniority of the councillor against whom you are submitting a written complaint in terms of any existing Council service provision or any tender/contract that you may have or are about to submit to the Council; or
- you are an officer who works closely with the councillor against whom the allegation is made and have a reasonable belief that you may be adversely affected in your employment if your identity is disclosed.

Do you wish to consider a request for withholding your name and/or the details of your complaint?

No

If you wish us to consider a request for withholding your name and/or the details of your complaint, please give your reasons why

Remedy sought

The remedies available to the Corporate Governance and Standards Committee in the event of an allegation being proven are limited but include:

- the issuing of a formal letter
- a formal reprimand
- a recommendation that the councillor be removed from any or all committees, sub-committees, Executive or sub-committee of Executive
- restriction of the councillor's access to the premises of the relevant authority and the councillor's use of the resources provided that any such restrictions imposed upon the councillor
 - are reasonable and proportionate to the nature of the breach, and
 - do not unduly restrict the councillor's ability to perform his or her functions as a councillor, the issue of a press release or other relevant publicity.

In addition, with the agreement of the councillor concerned the Corporate Governance and Standards Committee may also require the councillor to undertake training, participate in conciliation or submit an apology. There is no power to suspend a councillor, impose a financial penalty, award compensation or make an award of costs. Remedies in relation to a parish councillor complaint will be by way of recommendation to the relevant parish council.

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

A public apology; public because some of the unwarranted insults were published.

Privacy statement

The information you provide on this form will be used by Guildford Borough Council for the purposes of handling your complaint.

Your personal information will be processed in line with Data Protection legislation. It will not be disclosed to third parties for marketing purposes, but may be shared with statutory regulators where permitted by law for reasons of public interest or in the exercise of official authority. Your name and the details of your complaint may however be made public in accordance with the provisions of the Localism Act 2011 and any regulations made

thereunder. We will retain your data for 5 years following the closure of your complaint, after which it will be securely destroyed.

Further details are available on [Guildford Borough Council and your data](#), or from the Information Rights Officer, Guildford Borough Council, Millmead, Guildford, GU2 4BB (email: iro@guildford.gov.uk).

I confirm I have read the privacy statement | Yes

Do not show

Leave Blank

25/06/2021, 21:34

Hi Richard. Trust all is well. Were you at your group's AG? Can you corroborate Paul Spooner's answers to our questions please. The vote figure contradicts what we were told by one other source but I can imagine Paul being untruthful on this as it would be so easily pointed out by others present.

From: Paul Spooner <Paul.Spooner@guildford.gov.uk>

Sent: 26 June 2021 17:33

To: David Reading [REDACTED]

Subject: RE: Your re-election [UNC]

David, I am seriously unimpressed that Giles has sent other members of the group my responses for collaboration!

So you can get stuffed.

Best regards

Paul

Council Mobile: 07970 953232

Personal Mobile: 07836 753647

Home Landline: 01252 338627

Clr Paul Spooner

Representing residents of Ash South, Ash Green & Tongham

Chairman: O&S Committee

Lead Planning Member: Ash South & Tongham Ward

Employment Committee Member

SCC/GBC Joint Committee Member

Guildford Borough Council

Volunteering in the Community

Chairman: Guildford in Bloom

Governor (Vice Chairman): Ash Manor School

Trustee: Henry Smith Charity (Ash)

Parish Councillor (GBC appointed interim role): Normandy PC

Political Declaration: Member of the Conservative Group at Guildford Borough Council. Member of the Conservative Party.

Is the rag you write for incapable of understanding the difference between a vote and nomination? I was the only group member nominated and the vote was 8-1. I hope that is clear for your pea brain editor.

18:21

Now please do not contact me again. Please find someone else to communicate with the Tory Group

18:22

From: graham eyre [REDACTED]
Sent: 26 June 2021 19:22
To: David Reading <[REDACTED]>
Subject: Re: Dragon article

David,

The latest little bonding of the truth regarding Paul being elected as Group Leader. Your grubby little paper, or should I say your grubby little boss, cannot accept anything he doesn't like, so he just prints lies and insinuations.

I, for one, thought you were better than that, and wouldn't allow unsubstantiated rumours to be printed. The information you were given was absolutely correct and could have been verified by anyone at the meeting, however Giles decides to go with lies from people who weren't even there.

It's a sad day, but it's not the first time lies and half truths have been printed in the Dragon, rather than facts.

Graham

On Sat, 26 Jun 2021, 19:09 David Reading, <[REDACTED]> wrote:

Thanks for your email, Graham. I know you have just cut off all communication, but would you just specify what lies you are referring to.

Regards,

David

From: graham eyre <[REDACTED]>
Sent: 26 June 2021 18:53
To: [REDACTED]
Subject: Dragon article

David, what a shame you allowed the latest lies about Paul Spooner to be printed.

Don't ever come to any of us Conservatives again for anything.

Graham

↻ Guildford Cons Retweeted



Paul Spooner ❤️ @PaulKGB · Jun 26



What a seedy rag @guildforddragon is. They send me qns for answering. I do that promptly and to the best of my ability and then they circulate to other members of the group as they don't believe my responses. Balanced? Laughable.



1



1



7





Notifications



All

Mentions

users. As well, they have always stated low income or people in special circumstances with have other options available to use the site.



Paul Spooner ❤️ @PaulKGB · 1d
Replying to @JamesLWalsh and @guildforddragon

They send me set questions from their Ash correspondent David Reading. Giles as Editor doesn't like the collegiate responses and starts contacting other Group members as he doesn't believe me and wants scandal. It really is a dirty little rag.



Guildford Borough Council

Weightmans reference: SIG/820982/2

**Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre**

SG 8

Simon Gocher

From: Graham Eyre <graham.eyre@guildford.gov.uk>
Sent: 30 December 1899 00:00
To: Bridget Peplow
Cc: Claire Beesly
Subject: RE: Notification of Code of Conduct complaint [UNC]

DOCID: 39047106

Hi Bridget,

Thanks for notifying me of this issue.

My response is as follows:

I have known David Reading for a very long time now, indeed many years before I became a Councillor and have always had a good relationship with him.

My emails referred to in this complaint were PERSONAL emails sent from my PERSONAL email Account, not my GBC email, to his PERSONAL email. In them I expressed my PERSONAL opinion on certain facts.

If David Reading decides to share our PERSONAL conversation with a third party without my consent, is totally out of my control. I understand that, in this complaint, Mr. Giles is suggesting that some of my comments were published. All I can say to that is that if they were, they were published by him and completely unknown to me and without my authority.

As far as I am concerned I will not, under any circumstances, be apologising to Mr. Giles, as my PERSONAL comments to David were accurate.

Kind regards

Graham

Cllr. Graham Eyre

Representing Residents of Ash South & Tongham
Member Overview & Scrutiny Committee
Member Joint Executive Advisory Board
Member Strategy & Resources EAB
Guildford Borough Council

Director & Trustee of Ash Citizens Advice Bureau
On behalf of Guildford Borough Council

From: Bridget Peplow <Bridget.Peplow@guildford.gov.uk>
Sent: 08 July 2021 16:45
To: Graham Eyre <graham.eyre@guildford.gov.uk>
Cc: Claire Beesly <Claire.Beesly@guildford.gov.uk>
Subject: Notification of Code of Conduct complaint [UNC]

Dear Cllr Eyre,

I write to advise you that a complaint has been made against you by Martin Giles, alleging that you breached the Code of Conduct for Councillors. The complaint form and attachments are attached to this email. Please note that,

for reasons of confidentiality, I have not included the attachments relating to the messages sent by Cllr Spooner. Equally the attachments that relate solely to you are not being sent to Councillor Spooner.

The complaint has passed the initial jurisdiction test and is now at the initial assessment stage. I am therefore inviting you to submit your comments or any information you wish to provide in response to the complaint within 20 working days ie by 5th August. The complaint and your response will then be sent to an Independent Person for their views, following which the Monitoring Officer will make a decision whether to submit the complaint to Informal Resolution or Formal Investigation.

Mr Giles has indicated to me that he would be content with a private apology from you. It would be helpful if you could comment on whether you would be willing to apologise.

Please could you send your response to Claire Beesly who will be taking over the conduct of this complaint.

Kind regards,

Bridget Peplow

Senior Specialist Lawyer (Employment & Litigation)

Deputy Monitoring Officer

Legal Services

Tel: 01483 444076

Mob: 07970032510

Fax: 01483 444996

www.guildford.gov.uk

Guildford Borough Council, Millmead House, Guildford, Surrey GU2 4BB

Follow us on Twitter @GuildfordBC

007770 / 00654810

Guildford Borough Council UNCLASSIFIED INTERNAL

Simon Goacher

From: Paul Spooner <Paul.Spooner@guildford.gov.uk>
Sent: 30 December 1899 00:00
To: Bridget Peplow
Cc: Claire Beesly
Subject: RE: Notification of Code of Conduct complaint [UNC]

DOCID: 39047107

Bridget,

Some comments:

1. This seems to be a 'selected' set of messages and even my initial response to the set of questions has not been supplied in the complaint.
2. Whilst this so called media outlet chooses to remove me from comms – as evidenced in the St Mary's Church (garden of Hope) PR where the comment attributed to me by GBC/Experience Guildford was removed by GDN in their article is their choice/editorial direction as they left Joss Bigmore's comment in place, it is also my choice to make my personal opinion as I so wish. I did not swear, and in any event the WhatsApp provided is a very small part of the WhatsApp messages exchanged between David Reading and myself on a personal level. Some could be embarrassing to David Reading as they comment on Martin Giles. I am not sure that would help the relationship between the two GDN individuals.
3. There is absolutely no chance that I would apologise to the GDN and in the same way they would never apologise for some of the lies that they have stated in relation to the Council and me over the years. What they have provided as a complaint is a selected sample of comments that are opinions by me. Nothing more.

Best regards
Paul

Council Mobile: 07970 953232
Personal Mobile: 07836 753647
Home Landline: 01252 338627

ClIr Paul Spooner
Representing residents of Ash South, Ash Green & Tongham

Chairman: O&S Committee
Lead Planning Member: Ash South & Tongham Ward
Employment Committee Member
SCC/GBC Joint Committee Member
Guildford Borough Council

Volunteering in the Community

Chairman: Guildford in Bloom
Governor (Vice Chairman): Ash Manor School
Trustee: Henry Smith Charity (Ash)

Political Declaration: Member and Group Leader of the Conservative Group at Guildford Borough Council. Member of the Conservative Party.

From: Bridget Peplow <Bridget.Peplow@guildford.gov.uk>
Sent: 08 July 2021 16:37
To: Paul Spooner <Paul.Spooner@guildford.gov.uk>

Cc: Claire Beesly <Claire.Beesly@guildford.gov.uk>
Subject: Notification of Code of Conduct complaint [UNC]

Dear Cllr Spooner,

I write to advise you that a complaint has been made against you by Martin Giles, alleging that you breached the Code of Conduct for Councillors. The complaint form and attachments are attached to this email. Please note that, for reasons of confidentiality, I have not included one attachment which relates solely to another Councillor. Equally the attachments that relate to you are not being sent to the other Councillor.

The complaint has passed the initial jurisdiction test and is now at the initial assessment stage. I am therefore inviting you to submit your comments or any information you wish to provide in response to the complaint within 20 working days ie by 5th August. The complaint and your response will then be sent to an Independent Person for their views, following which the Monitoring Officer will make a decision whether to submit the complaint to Informal Resolution or Formal Investigation.

You will note that Mr Giles would like a public apology for the comments made. It would be helpful if you could comment on whether you would be willing to apologise.

Please could you send your response to Claire Beesly who will be taking over the conduct of this complaint.

Kind regards,

Bridget Peplow
Senior Specialist Lawyer (Employment & Litigation)
Deputy Monitoring Officer

Legal Services

Tel: 01483 444076

Mob: 07970032510

Fax: 01483 444996

www.guildford.gov.uk

Guildford Borough Council, Millmead House, Guildford, Surrey GU2 4BB

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Guildford Borough Council UNCLASSIFIED INTERNAL

Simon Goacher

From: Paul Spooner <Paul.Spooner@guildford.gov.uk>
Sent: 30 December 1899 00:00
To: Claire Beesly
Cc: Graham Eyre
Subject: RE: Code of conduct complaint - Martin Giles [UNC]

DOCID: 39047113

Dear Claire,

As you are stating that Mr Giles as complainant has absolute control over what is published and I will not have any rights in any respect then I cannot agree. Who would?

Best regards

Paul

Council Mobile: 07970 953232
Personal Mobile: 07836 753647
Home Landline: 01252 338627

Clr Paul Spooner
Representing residents of Ash South, Ash Green & Tongham

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Governor (Vice Chairman): Ash Manor School
Trustee: Henry Smith Charity (Ash)
Proud member of Guildford Lions

Political Declaration: Member and Group Leader of the Conservative Group at Guildford Borough Council. Member of the Conservative Party.

From: Claire Beesly <Claire.Beesly@guildford.gov.uk>
Sent: 07 January 2022 10:51
To: Paul Spooner <Paul.Spooner@guildford.gov.uk>
Cc: Graham Eyre <graham.eyre@guildford.gov.uk>
Subject: RE: Code of conduct complaint - Martin Giles [UNC]

Dear Clr Spooner

Thank you for your response and I await hearing from Clr Eyre.

You should be aware that if you give Mr Giles permission to publish the complaint and decision notice then you will not be able to require that he also publishes your response to that publication. If it would help to discuss then I am happy to do so.

Cllr Eyre - I would be very grateful for your view.

Many thanks

Claire Beesly
Senior Legal Specialist (Corporate, Commercial and Property) / Deputy Monitoring Officer
Legal Services
Email: claire.beesly@guildford.gov.uk

Tel: 01483 444144
Mobile: 07970032493
Fax: 01483 444996
Guildford Borough Council, Millmead House, Guildford, Surrey, GU2 4BB
DX 2472 Guildford 1

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From: Paul Spooner <Paul.Spooner@guildford.gov.uk>
Sent: 15 December 2021 14:15
To: Claire Beesly <Claire.Beesly@guildford.gov.uk>
Cc: Graham Eyre <graham.eyre@guildford.gov.uk>
Subject: RE: Code of conduct complaint - Martin Giles [UNC]

Hi Claire,

If this saves Council Tax payer's money then I have no issue with this. I assume that such an agreement will enable me to respond without the response being 'edited' by Mr Giles.

Best regards

Paul

Council Mobile: 07970 953232
Personal Mobile: 07836 753647
Home Landline: 01252 338627

Cllr Paul Spooner
Representing residents of Ash South, Ash Green & Tongham

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Trustee: Henry Smith Charity (Ash)
Proud member of Guildford Lions

Political Declaration: Member and Group Leader of the Conservative Group at Guildford Borough Council. Member of the Conservative Party.

From: Claire Beesly <Claire.Beesly@guildford.gov.uk>
Sent: 15 December 2021 12:50
To: Paul Spooner <Paul.Spooner@guildford.gov.uk>
Subject: Code of conduct complaint - Martin Giles [UNC]

Dear Cllr Spooner,

Mr Giles has made an offer for an alternative form of informal resolution in relation to his complaints. He has suggested that his complaint and the decisions notices are published so that a formal investigation is not required. Mr Giles is under the impression that this is permitted under the handling arrangements.

It would not be usual for there to be any publication prior to a formal investigation in order to preserve the integrity of the investigation and so that public attention is not drawn to an allegation which is not pursued. However, the arrangements do provide that where some other resolution has been reached this may be made available with the consent of the Subject Member.

I would not agree to the publication of any information concerning this complaint without your consent prior to any formal investigation and I am therefore writing to ask if you could consider Mr Giles' proposal and let me have your response.

If it would assist to discuss this with me then please do not hesitate to contact me.

Kind regards

Claire Beesly
Senior Legal Specialist (Corporate, Commercial and Property) / Deputy Monitoring Officer
Legal Services
Email: claire.beesly@guildford.gov.uk

Tel: 01483 444144
Mobile: 07970032493
Fax: 01483 444996
Guildford Borough Council, Millmead House, Guildford, Surrey, GU2 4BB
DX 2472 Guildford 1

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Guildford Borough Council

Weightmans reference: SIG/820982/2

**Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre**

SG 9

----- Forwarded message -----

From: **Guildford Conservative Association** <info@guildfordconservatives.com>

Date: Mon, 28 Jun 2021 at 13:37

Subject: RE: URGENT: Malicious Tweets from Paul Spooner

To: Martin Giles <guildford.dragon@gmail.com>

Hi Martin,

I've spoken to [redacted] just now; she's in a meeting so has asked me to apologise on her behalf. I have removed the retweet and looking into how this has happened. I've just also had to remove a retweet from a parody account set up in [redacted] name, so there is a possibility we've been hacked.

Please be assured that Paul's post isn't something the Management Team at GCA would choose to retweet.

Our apologies once again.

Best wishes,

[Redacted]

Constituency Agent

Guildford Conservative Association

www.guildfordconservatives.com

This email and any attachments to it (the 'Email') are intended for a specific recipient(s) and its contents may be confidential, privileged and/or otherwise protected by law. If you are not the intended recipient or have received this Email in error, please notify the sender immediately by telephone or email, and delete it from your records. You must not disclose, distribute, copy or otherwise use this Email. Please note that email is not a secure form of communication and that the Conservative Party ('the Party') is not responsible for loss arising from viruses contained in this Email nor any loss arising from its receipt or use. Any opinion expressed in this Email is not necessarily that of the Party and may be personal to the sender.

Promoted by [redacted] on behalf of Guildford Conservatives, both at [redacted].

Guildford Borough Council

Weightmans reference: SIG/820982/2

Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre

SG 10

Simon Goacher

From: Paul Spooner <Paul.Spooner@guildford.gov.uk>
Sent: 25 May 2022 07:30
To: Simon Goacher
Subject: FW: Your latest comment [UNC]

Categories: (EFA) Not saved to MS
DOCID: 40906359

This message originated from outside our organisation and was sent to Simon Goacher. The sender name was Paul.Spooner@guildford.gov.uk and the sender's email address was paul.spooner@guildford.gov.uk

My other email refers.

Best regards

Paul

Council Mobile: 07970 953232
Personal Mobile: 07836 753647
Home Landline: 01252 338627

Cllr Paul Spooner
Representing residents of Ash South, Ash Green & Tongham

Chairman: O&S Committee
Lead Planning Member: Ash South & Tongham Ward
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Guildford Borough Council

Volunteering in the Community

Chairman: Guildford in Bloom
Governor (Vice Chairman): Ash Manor School
Trustee: Henry Smith Charity (Ash)
Proud member of Guildford Lions

Political Declaration: Member and Group Leader of the Conservative Group at Guildford Borough Council. Member of the Conservative Party.

From: Dragon Editorial Team <guildford.dragon@gmail.com>
Sent: 05 April 2022 11:40
To: Paul Spooner <Paul.Spooner@guildford.gov.uk>
Cc: Guildford Conservative Association <info@guildfordconservatives.com>
Subject: Your latest comment

Paul,

I am normally prepared to publish your comments despite your one-way ex-communication with *The Guildford Dragon NEWS*.

However, on this occasion, I have decided it is inappropriate as you are a subject in the story ([Councillor Complains of Party Politically Motivated Motions on Borough Council's Agenda](#)) and would be sidestepping our ability to question you in the same way we can other councillors.

Your comment:

START

It is unfortunate that Cllr Maddy Redpath does not appear aware that the Surrey Police and Crime panel is made up of representatives from Surrey County Council and each of the Boroughs and Districts across Surrey. Two GBC Cllrs are on the panel: Cllr Witham, the seconder of the motion, in his capacity as a County Councillor, and Cllr Fiona White, appointed by Guildford Borough Council. My motion is not political but is very relevant to our Borough. Indeed one of the complainants to the panel was a Conservative MP!

END

Martin Giles

Editor



www.guildford-dragon.com

@guildforddragon

Tel: 07796 930355

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This message has been scanned for malware by Forcepoint. www.forcepoint.com

Guildford Borough Council

Weightmans reference: SIG/820982/2

Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre

SG 11

Simon Goacher

From: Martin Giles [REDACTED]
Sent: 30 May 2022 22:39
To: Simon Goacher
Subject: Re: Investigation - Draft report

Categories: (EFA) Saved to MS

This message originated from outside our organisation and was sent to Simon Goacher. The sender name was [REDACTED] and the sender's email address was [REDACTED]

Thanks Simon,

Here are my further responses:

Para 24. I have re-checked the editorial log. I think my last email was unintentionally misleading. I apologise. The 5-4 vote was not reported as a fact but contained in the article as a posed question. The following is a screen shot of the earliest published version of the story, I believe.

+ ***Is it true that the vote at your group's AGM was 5-4 and that the vote of the newly elected Keith Witham in your favour was decisive?***

No. The vote was 8-1 and I am grateful to Cllr Nigel Manning for nominating me.

Paul Spooner did not complain about the question when he sent his response.

As previously stated, the question to us was not is the 8-1 true (although seeking corroboration is normal) it was what was the one vote that was not in favour for.

Para 25. Accepted.

Para 28. Accepted.

Para 30. I still think this should be outlined.

Para 31. Accepted.

Para 34. Noted.

Para 41 & 44. Accepted.

Para 48. I accept that is what I said but my further response is a more accurate way of describing it.

Para 53 See Para 24.

Para 65. Thank you.

Para 66. If it is not relevant it should be excluded. If it is included my rejection of the allegation should also be included.

Para 71. See para 24.

Para 74. Here is a relevant email. I recall it was subsequently discussed by phone, as requested.



Claire Beesly <Claire.Beesly@guildford.gov.uk>

to me ▾

Dear Martin

I have received confirmation from Cllr Eyre that he does not consent to the publication of your consent if you were required to also publish comments from him and I cannot make this a

Can you confirm that you wish me to proceed with the formal investigation and I will then address your complaint.

I apologise that this matter is taking so long to resolve. I had hoped we would be able to p

...



Dragon Editorial Team <guildford.dragon@gmail.com>

to Claire ▾

Hi Claire,

I don't fully understand. Could you call me to discuss please?

Martin

...

Para 80. Thank you.

Para 80. Thank you.

Para 95. I will accept your judgement but I think it is debatable. If a councillor criticised a small business in this way and affected its business I don't think that would be or should be deemed compliant with the code. He was not criticising us *in kind* to criticisms of him just name calling.

Regarding: "Cllr Spooner did also raise with me that he was particularly angry at you for contacting Cllr Billington because Cllr Billington had been seriously ill and you were aware of that."

Following an operation and subsequent recovery he resumed his mayoral duties and chaired council meetings in 2021 giving a speech at the "mayor making" of his successor in May.

I contacted Cllr Billington on numerous occasions last year and earlier this year. Our communication was always friendly and respectful, including the telephone conversation I had with him on this subject in June last year. Several stories published in 2021 were at his instigation. He did not appear to be frail or seriously ill at the time of my text message to him regarding the 8-1 vote. On June 3rd he had willingly participated in a story about the local theatre reopening.

He returned my request for another telephone conversation, amicable as usual, which took place in November 2021. And answered my enquiry about his health in February this year with, "Yes all well here thanks." In March he informed me the the "tumour has perked up" and that another operation was necessary. Other than send him my best wishes I did not trouble him further *hoping* that the treatment would be successful and contact could be resumed afterwards.

I find Paul Spooner's mud-slinging nasty and insulting but sadly typical. It is noteworthy that he is only trying to use this now, subsequent to the very sad death of Cllr Billington.

Best,

Martin

On 30 May 2022, at 16:51, Simon Goacher <Simon.Goacher@Weightmans.com> wrote:

Dear Martin

Thank you for your email.

The draft report is confidential to the parties so please do not share it with Mr Reading.

In relations to the points which you raise:

Paragraph 24 - I took this from your complaint which stated: "In the event, I missed a response telephone call from Cllr Billington, and we published the story, reporting the uncorroborated claim (which had come from a reliable, well-informed source) as a rumour (there was nothing defamatory about it, just the apparent contradiction)."

Paragraph 25 - This would not affect my view but I am happy to note your comments in my final report if you wish me to.

Paragraph 26 - as above

Paragraph 30 - as above.

Paragraph 31 - as above.

Paragraph 34 – I have learned of this from the Council and will amend to reflect the sad death of Cllr Billington

Paragraphs 41 and 44 – I am not sure what point you are making here? I have reflected that you advised me of the details of the story after the interview so I think this point is covered but if you wish to make any further comment for inclusion in my final report please confirm.

Paragraph 48 – this wording is taken from your note of interview.

Paragraph 53 – it is mentioned here because it was after your interview whereas the earlier paragraphs are taken from the interview. I do not accept that it provides a misleading impression.

Paragraph 65 – I interviewed Cllr Spooner after I spoke to you; it is normal practice to interview the subject members at the end of the process. I am happy to reflect your response that what he says is untrue in my final report.

Paragraph 66 – as above. It is not something which I felt was relevant to my conclusions or the complaint. I have to exercise a degree of judgment on when I put back to other witnesses points which have been made in other interviews and try to restrict this to any matters which are relevant to the facts I need to reach conclusions on. Whether what Cllr Spooner said was correct or not would not affect my conclusions on the matter I was investigating in any event so it is not a line I felt it was necessary or proportionate to investigate further.

Paragraph 71 – I am not sure what point you are making here? If you wish to make any further comment for inclusion in my final report please confirm.

Paragraph 74 – Do you have anything in writing from the Council on this point?

Paragraph 80 – as with paragraph 65 above I am happy to put your response to that comment from Cllr Eyre

Paragraph 83 – I am happy to include your comments on Cllr Eyre's comments in my final report.

Paragraph 95 – there is a broad allowance for political expression which is protected even if expressed in broad, sarcastic and even puerile terms. A news organisation can express criticism from many sources who do not like its content and in my view the Code is not in place to prevent that expression of opinion. Even if I had concluded it fell within the Code I would certainly have concluded that it would not be a justified interference with Article 10 rights to make such a finding or impose any sanction.

Thank you for sending me the social media guidance. It does not alter my view but I will append it to my final report.

Cllr Spooner did also raise with me that he was particularly angry at you for contacting Cllr Billington because Cllr Billington had been seriously ill and you were aware of that. I did not

include this in my report as I was concerned about including the sensitive personal data of Cllr Billington, particularly as I had not had the opportunity to speak to him. Cllr Spooner has stated that he believes that this should be included in the report as it provides context for his anger and his actions. Do you have any comments on his position on that point?

In relation to your questions about process I attach the Councils arrangements for dealing with complaints. The next stages are dealt with at paragraphs 10 and 11. In relation to the contents of my report these are set out in paragraph 21 of Appendix 2. I could set out recommendations for sanctions but I tend not to do so as I believe ultimately that is best decided by the hearing committee after it has heard the case and considered all the evidence and reached conclusions. The arrangement state that my report may include, "any recommendations which ...[I am]... minded to make to the Hearings Sub-Committee." Therefore, I am not required to do so.

If the matter does proceed to a hearing then the normal rules on local government access to information would apply so the hearing would normally be in public unless the sub-committee resolves that there are grounds for excluding the public under the Local Government Act 1972.

If you have any further queries or comments please do not hesitate to contact me.

Regards.

Simon

Simon Goacher
Partner
Weightmans LLP

<image001.png>

Tel: 0345 073 9900 /ext 139582

DDI: 0151 243 9582

Simon.Goacher@Weightmans.com

<https://www.weightmans.com>

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From: Martin Giles [REDACTED]
Sent: 27 May 2022 11:28
To: Simon Goacher <Simon.Goacher@Weightmans.com>
Subject: Re: Investigation - Draft report
Importance: High

This message originated from outside our organisation and was sent to Simon Goacher. The sender name was mgggu24ed@btinternet.com and the sender's email address was mgggu24ed@btinternet.com

Dear Simon,

Did you see that I intended to gather any observations from David Reading?

Grateful if you could confirm it would be appropriate for him to send them directly to you.

Also, I have noticed, since despatch, some relatively minor errors in the email I sent to you. Apologies. If you do intend to quote from the email please let me send a corrected version.

Best,

Martin

On 25 May 2022, at 13:51, Martin Giles <[REDACTED]> wrote:

Dear Simon,

Many thanks for your thorough report.

Here are my observations:

Paragraph 24: If Cllr Billington (who sadly died last week) said he tried to call (who did he say that to?) I would accept his word without question but I cannot verify it now, almost 12 months later.

I definitely spoke to him on the matter at some stage because it was him that confirmed to me there was no other nomination. (See also para 41.)

You say : "...but Mr Giles missed the call and published the original story which suggested that there were contradictory comments about the vote. This was later corrected to reflect the fact that the election was uncontested."

In our interview you put it to me that that was the case. I was not completely certain and was unwilling to say it definitely was not the case. After the interview, I verified the matter by checking the editorial or publishing audit trail (or log) on our site which tracks all changes on a story from the first time it is saved. From that I could see no version when the 5-4 vote report was included.

I think this was because as soon as David Reading and I discussed Paul Spooner's responses to questions posed, the issue was not was it 5-4 or 8-1, we accepted PS's account because it a false account would be exposed, our focus switched to what was the one vote for. Was it an abstention or was there another candidate. Obviously it would be sloppy to leave the question hanging and, in any case, it is always good journalistic practice to seek corroboration.

Para 25. There are two typos in the text message, the other is “AG” instead of AGM. I think it reflects the urgency with which I was working, commonplace in news reporting. Additionally, the “can’t” to “can” might have been an autocorrect of an incorrectly typed can’t on a phone keyboard.

Para 28. The responses were only sent to Cllr Billington because we had a very good working relationship which I would describe as “trusting”.

Para 30. Please see observation on para 24. Cllr Eyre’s only example of a “lie” was the printing of the 5-4 report of the voting, which my check shows we did not do.

Para 31. See observation on para 28.

Para 34. I don’t know when you tried to contact Richard Billington but, as I advised you some weeks ago, he was suffering from a serious illness (a brain tumour) and in the last weeks would have been gravely ill. He very sadly died on Friday, May 20.

Para 41. See para 24.

Para 44. See para 24.

Para 48. You say: “...it is Cllr Spooner not wanting to talk to the GDN”. This should read “it is Cllr Spooner not wishing to accept questions or requests for comment from TGDN”.

Para 53. To only mention the check here, later in your report, allows readers to form a misleading impression until this point or if other parts of the report are read in isolation. It should be referred to in Para 24.

Para 65. I don’t recall you put Paul Spooner’s views about me to me. I think they should have been. Read in isolation, unchallenged, they could give a false view of my integrity as an editor. Paul Spooner is entirely wrong and this is the root of the problem with our relationship.

I have published opinion clearly showing that I have been unimpressed with some Conservative policy and actions and with Paul Spooner’s leadership and behaviour but that does not extend to the Conservative Party generally. There are some excellent

Conservative councillors at borough (Richard Billington was one) and county level.

I am sure that some councillors from other parties will not have liked certain stories (and if councillors from other parties are complaining it hardly supports an anti Conservative bias). That is the nature of political reporting. Sometimes we report an incomplete picture because of a lack of openness from one or more parties. But I am unaware of a general dissatisfaction and I talk to the whole spectrum regularly (including Conservatives). I totally reject the claim that I have an anti-Conservative agenda or bias.

Para 66. Did you put this to David Reading? It is of course naturally true, that as editor I have the final say on stories and their content. However, it is unlikely that David Reading whose integrity even Paul Spooner appears to accept, would continue writing for us if he felt I was “spinning” stories to suit a bias. I do not.

Para 71. See para 24.

Para 74. A member of the monitoring officer’s team told me that allowing a right of reply would not be acceptable to the council and they had already rejected it. So it was not me that rejected the proposal. I said that although I did not object in principle, although it could not be unconditional as if something defamatory or demonstrably untrue was stated in the reply I would not wish to publish it. No editor or publisher can give carte blanche before seeing the content in question.

Para 75. Was this put to David Reading? If he does not object what would be the problem?

Para 80. This was not put to me and I utterly reject it. See para 65. I did not call Paul Spooner a liar.

Para 83. It was not a unanimous vote. Even 8-1 is not unanimous. Neither did we produce an article that was not true. I think Cllr Eyre’s memory is based on what they imagined we were going to publish rather than the story we did. The background stories referred to were almost certainly embarrassing to the local Conservatives but were factually correct and received no complaints.

Para 95. The councillor code states: “You must treat others with respect.” Does that not apply to organisations? It does not say

"other individuals". I do understand that councillors should be able to criticise organisations including, of course, news organisations but surely they should offer evidence to support their criticism rather than sinking to puerile name calling which does, in my view, break their code?

Were you aware of the guidance issued to GBC councillors for using social media? Might or might not be applicable. It is only guidance. Please find attached. And please don't let it hold anything up.

<Social Media Guidance for Councillors .docx>

I will see if David Reading wishes to make any observations which he can do directly to you, if so.

Martin

On 24 May 2022, at 15:11, Simon Goacher
<Simon.Goacher@Weightmans.com> wrote:

<Draft Report.pdf>

Please note that our central postal address for all offices is 100 Old Hall Street, Liverpool, L3 9QJ.

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Guildford Borough Council

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Report of an investigation into an allegation concerning the conduct of
Councillors Paul Spooner and Graham Eyre

SG 12



GUILDFORD
BOROUGH

Social Media Guidance for Councillors

(Approved by the Executive on 22 September 2020)

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Guidance on the use of social media and mobile devices

1. Social media is the term used for online tools, websites and interactive media that enable users to interact with each other by sharing information, opinions, knowledge and interests. This policy and guidelines cover social media issues over the internet and by email, smart phones, social networking sites, blogging, tweeting or through desktop computers, laptops, smart TVs and mobile devices such as smartphones and tablets.
2. For the purposes of this policy, the term 'social media' covers sites and applications including but not restricted to Facebook, Twitter, MySpace, Flickr, YouTube, LinkedIn, blogs, discussion forums, wikis and any sites which may emerge after the creation of this policy where Guildford Borough Council could be represented via online participation.
3. Councillors are increasingly using social media to engage with their electorate. The Council has made available laptop devices to all councillors to assist them in accessing and annotating agendas, reports and other meeting papers electronically.
4. The Openness of Local Government Bodies Regulations 2014 (that came into force on 6 August 2014) expressly permit any person who attends a meeting to use any communication method, including the internet, to publish post or otherwise share the results of that person's reporting activities during that meeting. "Reporting" includes photographing or making a video or audio recording of proceedings at a meeting and providing written commentary on proceedings using social media.
5. All Council, Executive, Planning, Licensing, Corporate Governance and Standards, Executive Advisory Board, Guildford Joint Committee and Overview and Scrutiny meetings are now webcast live on the Council's website and available to view from the webcast library for up to six months after the meeting. Anyone reading tweets or live blogs during the meeting may just as easily view the meeting itself via www.guildford.gov.uk/webcasting.
6. Inappropriate use of social media and mobile devices could be used as grounds to challenge a contentious decision or result in complaints of breaching the Councillors' Code of Conduct. The guidance does not intend to prohibit councillors from using social media and mobile devices for professional and personal purposes. However, it highlights some of the important considerations for councillors who choose to use social media platforms.

Who does this guidance apply to?

This guidance applies to Councillors attending Council meetings. It is also general good practice for professional conduct.

Key points

1. Social media is always on, so consider setting personal limits and establishing your own routine

2. Councillors are subject to the council's code of conduct when using social media
3. Social media has become an every-day communications tool for councillors and the people they represent, and the potential for councillors using social media is huge. Social media allows you to be innovative and responsive as well as providing links to useful sources of information or sign posting to other organisations.
4. Users must ensure that they use social media sensibly and responsibly, in line with corporate policy. They must ensure that their use will not adversely affect the Council or its business, nor be damaging to the Council's reputation and credibility or otherwise violate any Council policies.

Constant Risks

This policy applies to councillors and co-opted members. It gives guidelines on how to use social media, sets out how we can effectively manage social media usage and indicates how any risks or pitfalls can be minimised or mitigated. The following risks have been identified with social media use (this is not an exhaustive list):

1. Virus or other malware (malicious software) infection from infected sites.
2. Disclosure of confidential information.
3. Damage to the Council's reputation.
4. Social engineering attacks (also known as 'phishing').
5. Bullying or "trolling". An internet "troll" is a person who starts arguments or upsets people, by posting inflammatory or off-topic messages online with the deliberate intent of provoking readers into an emotional response or of otherwise disrupting normal discussion, often for their own amusement.
6. Civil or criminal action relating to breaches of legislation.
7. Breach of safeguarding through the use of images or personal details leading to the exploitation of vulnerable individuals.
8. Breach of the code of conduct for members through inappropriate use.
9. In light of these risks, the use of social media sites should be regulated to ensure that such use does not damage the Council, its employees, councillors, partners and the people it serves. As such this policy aims to ensure:
 - a) A consistent and corporate approach is adopted and maintained in the use of social media.
 - b) Council information remains secure and is not compromised through the use of social media.
 - c) Users operate within existing policies, guidelines and relevant legislation.
 - d) The Council's reputation is not damaged or adversely affected.

10. This guidance encapsulates a number of the Council's existing codes and policies and seeks to clarify what is acceptable use of social media and mobile devices. It may not always be apparent to members of the public when councillors are using social media in their personal capacity, or in their capacity as councillors.
11. The guidance sets out considerations and recommendations for councillors to ensure they use social media and mobile devices appropriately. These include guidelines on privacy settings, publishing information appropriately, and exercising care when communicating with others.
12. This guidance does not cover the appropriate use of mobile devices in terms of software and technology (e.g. what applications are appropriate to download). This is covered by the Council's Acceptable Use of ICT Equipment and Systems Policy.

What is the purpose of this guidance?

1. The purpose of this guidance is to provide parameters for Councillors' appropriate use of social media and mobile devices, in particular, during Council meetings.
2. Improper use of social media and mobile devices could be used as grounds for challenging a contentious decision, or result in complaints of breaching the Councillors Code of Conduct, for a failure to show respect for others or bringing the Council or the office of councillor into disrepute.
3. Councillors are asked to follow these guidelines to ensure that they comply with the Councillors Code of Conduct.

Guidance on the use of social media and mobile devices in meetings

1. Frequent use of mobile devices during meetings may give the public the impression that councillors are not fully considering the points made during the debate of an item in order to contribute to the decision that is to be made.
2. Even though the frequent use of such devices during meetings may be in a councillor capacity, this guidance seeks to assist councillors understand what is considered acceptable use as well as provide examples of uses that should be avoided.
3. Use mobile devices sparingly, discreetly and with common sense at meetings, considering the impression they are giving to others. Councillors should remember that most meetings are now webcast.
4. There may be occasions when texting or emailing between Councillors during meetings on matters relevant to the debate at hand may be valuable (on the same basis as circulating paper notes to other Councillors). Mobile devices also enable Councillors to manage their busy lives when time is at a premium. However, frequent use of these devices during meetings may give the public the impression that the councillor is not paying full attention to an item that is being discussed in a debate on a decision that is to be made.

Examples of acceptable use:

- (a) reading and annotating meeting papers and background information relevant to that meeting;
- (b) communicating with others at the meeting on matters relevant to the debate at hand; and
- (c) sending and receiving communications to/from home relating to domestic circumstances (e.g. childcare arrangements), within reason and with common sense.

Avoid the following:

- (a) using social media during quasi-judicial meetings or during the consideration of confidential or exempt items of business at meetings; and
- (b) frequently checking emails and messages that are not related to the meeting;
- (c) taking and sending electronic images of proceedings; and
- (d) extended periods of use that suggests that insufficient attention is being paid to the meeting.

Responsibilities of Councillors and Co-opted Members

1. You are personally responsible for the content you publish on any form of social media. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a libel action for which you will be personally liable.
2. Social media must not be used in a way that might lead to a complaint that you have breached the Council's Code of Conduct for Councillors and Co-opted Members.
3. Social media sites are in the public domain and it is important to ensure you are confident of the nature of the information you publish. Once published, content is almost impossible to control and may be manipulated without your consent, used in different contexts, or further distributed.
4. It is recommended that you have separate social media profiles for your role as a Councillor or Co-opted Member and for your private life.
5. Make use of stringent privacy settings if you don't want your social media to be accessed by the press or public. Read the terms of service of any social media site accessed and make sure you understand their confidentiality/privacy settings.
6. You are personally responsible for the content you publish on any form of social media. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a libel action for which you will be personally liable; no indemnity from the Council will be available.

7. Do not disclose personal details such as home addresses and telephone numbers. Ensure that you handle any personal or sensitive information in line with the Council's Data protection policy.
8. Do not use the Council's logo, or any other Council related material on a personal account or website.
9. Safeguarding issues are paramount because social media sites are often misused by offenders. Safeguarding is everyone's business – if you have any concerns about other site users, you have a responsibility to report these.
10. Do not publish or report on meetings which are private or internal (where no members of the public are present or it is of a confidential nature) or exempt reports (which contain confidential information or matters which are exempt under the provision of the Local Government (Access to Information) Act 1985).
11. Make use of stringent privacy settings if you don't want your social media to be accessed by the press or public. Read the terms of service of any social media site accessed and make sure you understand their confidentiality/privacy settings.
12. Copyright laws still apply online. Placing images or text from a copyrighted source (e.g. extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything you are unsure about or seek permission from the copyright holder in advance.
13. Don't send or post inappropriate, abusive, bullying, racist or defamatory messages to members of the public, other councillors or officers either in or outside the work environment.
14. The Council will not promote councillors' social media accounts during the pre-election period.
15. In any biography, the account should state the views are those of the councillor in question and may not represent the views of the Council.
16. Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable.
17. Anyone receiving threats, abuse or harassment via their use of social media should report it to their political group leader, the Monitoring Officer and/or the police.

Conduct

1. Councillors are reminded that in respect of social media, they are governed by the Code of conduct for members and relevant law. You are acting in your "official capacity" and any conduct may fall within the Code whenever you:
 - a) Conduct the business of the Authority; or

- b) Act, claim to act or give the impression you are acting as a representative of the Authority; or
 - c) Act as a representative of the Authority.
2. Breaches of this policy may amount to a breach of the Council's code of conduct for members.
 3. Other violations of this policy, such as breaching the Data Protection Act, could lead to fines being issued and possible criminal or civil action being taken against the Council or the individual(s) involved.
 4. The Council reserves the right to request the removal of any content that is deemed to be in breach of the code of conduct for members.

Good practice on the use of social media and mobile devices

1. Councillors may use these and other platforms in their official capacity but should remember that the public may still perceive them as acting in that capacity even when that is not their intention.
2. Councillors should:
 - a) consider whether they need to set appropriate privacy settings for any blog or networking site – especially if it is a private, non-political blog;
 - b) keep an eye out for defamatory, untrue or obscene posts from others and remove them as soon as possible to avoid the perception that they condone such views;
 - c) be careful about any connection with service users who are vulnerable adults or children, as this could be regarded as a safeguarding issue;
 - d) ensure they use Council facilities appropriately and comply with the Acceptable Use of ICT Equipment and Systems Policy;
 - e) be aware that by publishing information that they could not have accessed without their position as a councillor, they will be seen as acting in their official capacity;
 - f) be careful about being too specific or personal if referring to individuals; and
 - g) be aware that the libel laws cover blogs, social media and other forms of digital content publication.
3. Councillors should not:
 - a) place images or text on their site from a copyrighted source (for example extracts from publications or photos) without permission
 - b) post comments that they would not be prepared to make face to face;
 - c) refer in a blog to any information identified by the Council as confidential or exempt;
 - d) disclose information given to them in confidence by anyone or information acquired by them which they believe or are aware is of a confidential nature;
 - e) publish personal data of individuals except with express written permission to do so;

- f) give the impression that they are expressing the views of the Council where it is not appropriate to do so; and
- g) if they are involved in determining planning or licensing applications or other quasi-judicial decisions, publish anything on their blog that might suggest they do not have an open mind about a matter they are involved in determining.

Inappropriate Use of Social Media by Others

1. Anyone receiving threats, abuse or harassment via their use of social media should report it to the police.
2. Other inappropriate content can be reported to the social media site directly to ask for it to be removed.
3. You may wish to save a screenshot in the circumstances.

Online safety, personal security and digital citizenship

1. Digital Citizenship, which has begun to be taught in schools, is about engaging in appropriate and responsible behaviour when using technology and encouraging others to do so as well. It encompasses digital literacy, ethics, etiquette, online safety, norms, rights, culture and more.
2. In any personal online biography, it is advisable to make clear that the views are those of the councillor in question and may not represent the views of the council. If space allows, you may also want to set out a 'response' policy, such as "I welcome questions via email" and an 'engagement' policy, such as "abusive content will be removed".
3. It is easy to put personal information online, such as your birthday, routines, places you frequent, future visits, holiday destinations, relationships, and opinions, etc, which are then available for anyone in the public domain to access. For personal safety, as well as identity security, you may want to consider whether you share personal information, images of friends and/or family and details of any routines.
4. Social media posts now include location-based information, particularly from mobile phones, which tells people exactly where you are or where you have been. Again, with personal security in mind, you may want to turn off these notifications.
5. You can 'search for yourself' to check what information you can find out about yourself, your family or your business on-line. Checking this regularly means you can check what is in the public domain and edit it if necessary.
6. With respect to personal security, it is advisable not to include on social media details such as your personal phone numbers, home address, details of family members or vehicle details.
7. A picture paints a thousand words, and a photo can relay personal information you may not want shared on social media. As such, it is advisable to only publish photos of family, friends and colleagues with your consent and theirs, to ensure photos don't reveal your home or places frequented with family members such as schools or care homes, and to disable automatic photo and location tagging so that you have to approve another user

identifying you in a photo or being at a specific location. You may also want to make your family and friends aware that you will be following these precautions.

8. Some people say things via social media that they probably would not say in person, and they can post false information, insults or messages that you would not want to be associated with you. These can multiply and be shared quite rapidly. Councillors, and in particular female councillors, are unfortunately increasingly the subject of online abuse, bullying and harassment on social media. See our section on handling abuse on social media on how to manage this.
9. Having a social media presence means that people can contact you at any time. This is great in terms of accessibility but means that they may expect you to reply immediately, which can create a sense of pressure. It is useful to set your own rules and limits for how you manage your social media presence.
10. You can be sent phishing requests and malicious software on social media the same as you can on email, so maintain the same level of vigilance.
11. Be aware that some individuals post socially unacceptable, defamatory, inciting or even intimidatory remarks to generate online activity on the back of advertising or promotion of ideologies, brands or events. Similarly, the term "internet troll" is used to refer to a person or group of people who deliberately start arguments or upset people by posting inflammatory or off-topic messages online with the deliberate intent of provoking readers into an emotional response or of otherwise disrupting normal discussion, often for their own amusement.
12. Be aware of safeguarding because social media sites are often misused by offenders. Safeguarding is everyone's business – if you have any concerns about other site users, you have a responsibility to report these.
13. The usual protocols regarding confidential information, copyright, data protection, purdah, exempt reports, etc, apply to social media. Avoid publishing anything where there is doubt or seek permission in advance. Your council may also have a protocol regarding the use of social media in the run up to, during and after both internal and public meetings.
14. To be an effective councillor you won't stop meeting people and posting leaflets simply because you are posting online. You will know your residents best - consider which channel works best for them to connect with you, online and offline.
15. To provide support councillors in their use of social media, it is recommended that councils have their own policies, protocols and training, as well as a point of contact within the council to give support and to report to if things go wrong. The Local Government Association will be working with members to develop more detailed advice for councils in a future guide.

Principles for Using Social Media

You should follow these five guiding principles for any social media activities:

1. Be respectful – set the tone for online conversations by being polite, open and respectful. Use familiar language, be cordial, honest and professional at all times. Make sure that you respect people's confidentiality – do not disclose non-public information or the personal information of others.

2. Be credible and consistent – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.
3. Be honest about who you are – it's important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role.
4. Be responsive – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you can't. Respond to questions and comments in a timely manner.
5. Be confident – don't be scared of participating. Follow these rules and seek further guidance if you need it. If you're about to publish something that makes you even the slightest bit uncomfortable, pause to think about it. Feel confident in what you say before you say it – and say it as clearly as you can.

Think twice – Think carefully about all your social media posts. Once published it will be too late to change your mind. Follow these rules and seek further guidance if you need it.

Responsibilities of councillors on social media

1. Councillors are personally responsible for the content they publish on any form of social media. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a defamation action for which you will be personally liable. The same applies if you pass on any similar untrue statements you receive.
2. Social media sites are in the public domain and it is important to ensure you are confident of the nature of the information you publish. Once published, content is almost impossible to control and may be manipulated without your consent, used in different contexts, or further distributed.
3. You can make use of stringent privacy settings if you do not want your social media to be accessed by the press or public. It is advisable to read the terms of service of any social media site accessed and make sure you understand their confidentiality / privacy settings.
4. Some councillors choose to have separate social media profiles for personal and council use. It is important to keep in mind, however, that even the strictest privacy settings is no guarantee for posts or actions to remain private. As a rule of thumb, never post anything online you would not be comfortable saying or sharing in a public meeting.
5. The code of conduct for members and relevant legislation continues to apply online and in social media. If you are referring online in any way to your role as a councillor, you are deemed to be acting in your "official capacity" and any conduct may fall within the code.

Guidance on Capturing Social Media Posts

1. Posts made using third party sites such as Facebook or Twitter are not held or within the control of the Council - posts can be deleted by site administrators without the knowledge or consent of the Council.
2. In exceptional circumstances, copies of posts maybe made and retained by the Council, in line with relevant Council procedures. These copies will be held for a period dependent on the type of investigation they are subject to.
3. Where inappropriate use is suspected, it is suggested that you should pro-actively attempt to capture any inappropriate posts before they might be deleted. Copies should be made and reported to the Monitoring Officer within the Council, as well as following the social media sites own reporting procedures where appropriate.

Relationship with Other Council Policies

This social media policy should be read in conjunction with:

1. The protocol for the use of recording devices during any meeting held under the auspices of Guildford Borough Council.
2. The Code of conduct for members which regulates the standards of conduct of elected members of Guildford Borough Council. It also outlines the arrangements for investigating and deciding upon complaints against members.
3. The Data protection policy which outlines the Council's adherence to the Data Protection Act 2018 with regard to the collection, storage and use of personal data.

Examples of the Use of Social Media

1. *Can I comment/respond to questions posted on my social media page regarding general local issues?*

Yes. The Social Media Policy is not intended to restrict the use of social media, it is a guidance tool to make Councillors aware of the risks and pitfalls. Social media is an excellent method for Councillors to interact with members of the public and should be encouraged.

2. *Can I comment/respond to questions posted on my social media page regarding upcoming Council matters such as licensing or planning applications?*

Councillors can take a view and express opinions or concerns, however, they must not show bias or pre-determination. Councillors are reminded to remain impartial and open minded and listen to all the facts before coming to a decision. Evidence of any kind of bias or pre-determination could leave the decision open to challenge.

3. *I find comments on my social media page posted by a third party insulting and/or confrontational. How should I respond?*

If at all possible, don't respond at all. Internet "trolls" are people who often try to "wind-up" public figures on purpose to get a reaction. It is best to not "feed the trolls" by ignoring the post. If it is clear that the person is a serious, concerned member of the public then a suitably non-confrontational reply may be appropriate. Remember that you remain a representative of the Council online and should not do or say anything that you wouldn't do face-to-face or in a letter. If the post is potentially defamatory or illegal then it should be reported to the site administrators and/or the police.

4. *I discover information that is incidental to my role as a Councillor (for example, information relating to a planning application). Can I disclose this information via social media?*

Yes, however, you should take great care in doing so. Posting information obtained as Councillor will be seen as acting in your official capacity of a Councillor even if this is on your personal account. You should also remember that publishing anything regarding forthcoming or on-going decisions could be seen as pre-determination or bias. If the information is confidential then releasing the information may be a breach of the Code of Conduct.

5. *Someone has posted a racially aggravated comment on my personal blog, what can I do? Can I be held liable?*

As soon as you become aware of the comment you should inform the site administrator. If you are exclusively in charge of the site you should consider reporting the comment to the Police. You should keep evidence of the post and then ensure it is taken down. Providing a Councillor takes reasonable care and reports the potential offence quickly they are unlikely to be held liable for someone else's breaches.

6. *I publish a post on my personal page regarding a matter that I will be making a decision on (such as a planning or licensing application). As this is my personal blog do the rules for pre-determination and bias still apply?*

Yes, they do. The Social Media Policy also extends to personal blog where the content/comment relates to Council matters. Councillors should take care when publishing information regarding a Council matter as this may leave the decision open to challenge.

7. *Do any special rules apply to social media posts and blogs during a local election period?*

During an election period Councillors should take particular care as legislation relating to electoral matters will apply to the online publication of electoral material or statements relating to the election. For example, if you publish a statement on your personal blog regarding another candidate the Representation of the People Act 1983 may apply. Under this legislation it is a criminal offence to make or publish a false statement of fact about the personal character or conduct of an election candidate.

8. *What happens if I breach the Social Media Policy?*

It depends upon the nature of the breach. However, punishment for a serious breach of the Policy may lead to a code of conduct complaint or even personal liability or criminal charges.

Managing and moderating your own pages

1. You may wish to set up your own councillor or community page on Facebook. These are valuable platforms to promote local information, news, events or council developments or seek people's views on community or council proposals.
2. Members of the community and others can contribute and comment in an interactive manner and whilst most is constructive and uses acceptable language, some individuals may use bad language or 'cross the line' into abuse or harassment.
3. If you are a Group or Page administrator, Facebook provides you with a range of tools to manage and moderate other people's content or contributions to your Group or Page for more serious breaches of standards.

You can:

- a) block certain words or apply a 'profanity filter' in the settings, this will stop such postings appearing in your page
- b) hide or delete comments, photos or tags
- c) ban or remove someone from your pages
- d) find useful guidance and instructions on the 'Banning and Moderation' section of Facebook
- e) share the responsibility of administering a large Group with other councillors, friends or trusted community members
- f) find guidance on making other people administrators on Facebook.