

Complaint Ref:	NDC2/18
Report to be considered by:	Governance and Ethics Committee
Date of Meeting:	08 August 2018
Purpose of Report:	<ol style="list-style-type: none"> To make a determination as to whether a breach of the Code of Conduct has occurred after considering the Investigator's report about a complaint received from Mr Thomas Tunney on behalf of Newbury Constituency Labour Party's Executive Committee (<i>Complainant</i>) in respect of Councillor Dominic Boeck (<i>Subject Member</i>) from West Berkshire Council submitted on 03 April 2018. Should the Committee determine that a breach of the Code of Conduct has occurred they will need to determine an appropriate sanction.
Paragraphs of the Code of Conduct that the complaint might relate to: General Obligations: <ul style="list-style-type: none"> Councillors must treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect. Councillors must, when using or authorising the use by others of the resources of the Council, use the resources properly and in accordance with the Council's relevant policies. Councillors must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation. Councillors must not do anything which may cause the Council to breach any of the equality enactments as defined in the relevant equalities legislation. 	

Monitoring Officer's Details	
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Appendices:

Appendix 1 WBC Code of Conduct

Appendix 2 WBC Social Media Policy

Appendices 3, 4 and 5 Initial complaint and associated paperwork

Appendix 6 Response to initial complaint by the subject member

Appendix 7 Initial Assessment Notice

Appendix 8 Investigators report

Appendix 9 Comments from Independent Person on the Investigator's Report

Appendix 10 Comments from Subject Member on the Investigator's Report

Appendix 11 Comments from the Complainant on the Investigator's Report

Monitoring Officer's Report

1. Introduction

- 1.1 A complaint was received from Mr Thomas Tunney on behalf of Newbury Constituency Labour Parties Executive Committee on 03 April 2018 concerning an alleged breach of West Berkshire Council's Code of Conduct by Councillor Dominic Boeck. The complaint was considered by the Monitoring Officer in consultation with the Independent Person (Lindsey Appleton) on 30 April 2018 where it was decided to refer the allegation for further investigation.
- 1.2 Ms Elizabeth Howlett was appointed to investigate the matter on behalf of West Berkshire Council.
- 1.3 The Investigator concluded that there was evidence of a breach, under the revised localism arrangements.
- 1.4 The Advisory Panel met on the 25 July 2018 to consider if it concurred, based on the facts set out in the report, with the Investigator's conclusion. The Advisory Panel then had to make a recommendation to the Governance and Ethics Committee to make a final determination on the matter.
- 1.5 The Advisory Panel concurred with the findings of the Investigator as set out in her report. The Panel requested that it be recorded that in relation to conclusions 1, 2 and 4 the decision of the Panel was unanimous. In relation to Question 3 the majority of members of the Panel agreed that retweeting a comment meant that the subject member endorsed the original tweet.
- 1.6 The Advisory Panel recommended on the basis of the information before them, that if the Special Governance and Ethics Committee concurred with the finding that a breach of the Code of Conduct had occurred, the following sanctions be considered:
 1. A formal letter be sent from the Chairman of the Governance and Ethics Committee to the subject member indicating that he failed to comply with West Berkshire Council's Code of Conduct.
 2. Given the current focus of the Health and Wellbeing Board on mental health the Conservative Group Leader be consulted and asked to remove the subject member from this portfolio but it be noted that they did not wish to have him removed from the Executive.
 3. As the matter had already appeared in local media a formal press release, sanctioned by the Governance and Ethics Committee be drafted and sent to the local newspaper.
 4. The subject member be asked to attend additional equalities training and social media training.

2. Conclusion

- 2.1 The Governance and Ethics Committee is required to decide if there has been a failure by the Subject Member to comply with the Code of Conduct.

- 2.2 In reaching the above decision, the Committee must have regard to the Appendices to this Report, together with any oral evidence which is presented during the meeting of the Governance and Ethics Committee.
- 2.3 If the Committee determine that there has been a breach of the Code of Conduct, the Committee must then consider what sanction to impose. In determining sanctions, the Committee must have regard to any mitigation presented by the Subject Member together with any advice that is given by the Monitoring Officer.