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GOVERNANCE AND ETHICS COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY, 8 AUGUST 2018

Councillors Present: Steve Ardagh-Walter, Jeff Beck (Vice-Chairman), Paul Bryant, Keith Chopping (Chairman), James Cole, Barry Dickens, Jane Langford, Geoff Mayes, Anthony Pick and Quentin Webb

Also Present: Sarah Clarke (Acting Head of Legal Services), Stephen Chard (Principal Policy Officer) and Moira Fraser (Democratic and Electoral Services Manager)

Apologies for inability to attend the meeting: Councillor Jeff Brooks

PART I

13 Declarations of Interest

Councillors Steve Ardagh-Walter, Jeff Beck, Paul Bryant, Keith Chopping, James Cole, Anthony Pick and Quentin Webb declared an interest in Agenda Item 3, but reported that, as their interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, they determined to remain to take part in the debate and vote on the matter.

Councillor Jane Langford declared an interest in Agenda Item 3, but reported that, as her interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, she determined to remain to take part in the debate.

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(Councillors Steve Ardagh-Walter, Jeff Beck, Paul Bryant, Keith Chopping, James Cole, Anthony Pick and Quentin Webb declared a personal interest in this item by virtue of the fact that the Subject Member was a fellow member of the Conservative Group).

(Councillors Ardagh-Walter, Beck, Pick and Cole also declared that they had previously canvassed with the Subject Member during elections).

(The Subject Member had previously acted as the agent for Councillor Webb during elections).

(None of these Councillors considered the Subject Member to be a close personal friend).

(As their interests were personal and not prejudicial they were permitted to take part in the debate and vote on the matter).

(Councillor Anthony Pick declared a personal interest in this item by virtue of the fact that his wife was a member of the Newbury and District Association of the National Trust as was the Investigator, Elizabeth Howlett. As his interest was personal and not prejudicial he was permitted to take part in the debate and vote on the matter).

(Councillor Jane Langford declared a personal interest in this item by virtue of the fact that she was a member of the West Berkshire Conservative Association, however she did not know any of the parties involved in the complaint. As her interest was personal and not prejudicial she was permitted to take part in the debate but as a parish councillor she was not able to vote on the matter).

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The Committee considered a report (Agenda Item 3) concerning an alleged breach of West Berkshire Council's Code of Conduct by Councillor Dominic Boeck. The complaint was received from Mr Thomas Tunney on behalf of the Newbury Constituency Labour Parties Executive Committee and was received by West Berkshire Council's Monitoring Officer on 3 April 2018.

The Chairman, Councillor Keith Chopping, welcomed everyone to the meeting and outlined the procedure for the day.

Sarah Clarke (Monitoring Officer) informed the Committee that following a request by the Subject Member that he be permitted to stand down from his Portfolio, the Leader of the Council agreed to change Councillor Boeck's Portfolio from Health and Wellbeing, Leisure and Culture to that of Corporate Services.

In accordance with the Council's protocol and procedures the Committee would receive representations from the Independent Investigator (Ms Elizabeth Howlett), the Complainant (Mr Thomas Tunney, supported by Ms Julie Wintrup) and the Subject Member (Councillor Dominic Boeck, supported by Councillor Graham Bridgman).

Independent Investigator – Ms Elizabeth Howlett in addressing the Committee raised the following points:

- She felt there were three key areas on which to focus:
 - (a) The question of whether the Subject Member was acting, claiming to act or giving the impression of acting in his capacity as a Councillor at the time of the complaint.
 - (b) The two distinctly separate social media threads which were the subject of the complaint. Ms Howlett considered that the first thread, in relation to Eddie Izzard, was a political comment and she did not consider it to be disrespectful. The second thread was different. Ms Howlett did consider this to be disrespectful as it directly characterised transgender people as mentally ill.
 - (c) Thirdly, the legal framework.
- In relation to point (a), this was the key question because it would determine whether the Code of Conduct applied at all. Ms Howlett highlighted that Councillor Boeck was a high profile Councillor, a Member of West Berkshire Council's Executive and until very recently was Chairman of the Health and Wellbeing Board. She considered that because of Councillor Boeck's high profile role at West Berkshire Council that he would be followed on Twitter purely because he was a Councillor. Ms Howlett felt that on balance, it was likely that Councillor Boeck was perceived by followers of his Twitter account to be acting in his capacity as a Councillor. Ms Howlett therefore concluded that the Subject Member gave the impression that he was acting in his capacity as a Councillor even though she accepted that it might not have been his intention and was not in relation to the business of West Berkshire Council.
- Turning to point (b) and specifically the first thread, Ms Howlett expanded on her view that the comment in relation to Eddie Izzard was political but was not disrespectful to an individual. While the Complainant considered it to be disrespectful to the Labour Party, Ms Howlett stated that the Code of Conduct allowed for political debate and political 'tit for tat', which could often be robust and passionate, meaning a degree of leeway was permissible. She therefore repeated her view that Councillor Boeck had not acted disrespectfully for the first thread.
- Ms Howlett repeated her conclusion that the second thread was disrespectful as it equated a transgender person as being mentally ill.

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- In terms of the legal framework, actions which were illegal offline were illegal online and the same rules applied. Twitter, despite its transient nature, was subject to defamation laws. The case law provided in the report highlighted a precedent which supported this view. The case law also gave an example of where an individual was considered to be acting as a Councillor even though they did not identify themselves as such, this was particularly so for those of a high profile.
- The Independent Investigator confirmed her conclusions as follows:
 - On balance, the Subject Member gave the impression that he was acting in his capacity as a Councillor even though it might not have been his intention.
 - She did not believe that the Subject Member had used resources issued to him by the Council. Ms Howlett was reasonably confident that Councillor Boeck had used his own personal iPhone.
 - The Subject Member had been disrespectful in relation to thread two, but not thread one.
 - The Subject Member had failed to adhere to the regulations pertaining to equality as Councillor Boeck had not treated those with mental illness with respect.

Questions and Answers – the Committee

In response to a question from Councillor Anthony Pick, it was confirmed that the thread one complaint was dated 3 April 2018 and the thread two complaint was dated 16 March 2018.

Councillor Pick referred to the definition provided in the Independent Investigator's report of bullying and intimidating behaviour. This stated that it might happen once, or be part of a pattern of behaviour, although minor isolated incidents were unlikely to be considered bullying. He therefore queried if it was the Independent Investigator's view that the matter was a minor isolated incident. Ms Howlett reiterated that she considered Councillor Boeck to have acted disrespectfully but this did not amount to bullying.

Questions and Answers – the Complainant – none raised.

Questions and Answers – the Subject Member

Councillor Bridgman, on behalf of Councillor Boeck, queried the definition of capacity in the West Berkshire Council Code of Conduct. This stated that a Councillor or Co-opted Member was acting in their capacity as such when they were:

- acting as a representative of the Council; or
- participating in a meeting, or at briefing meetings with officers and members of the public; or
- corresponding with the authority other than in their private capacity.

Councillor Bridgman sought confirmation that the matter of whether or not Councillor Boeck was acting in his capacity as a Councillor was in relation to 'acting as a representative of the Council'. Ms Howlett confirmed this to be the case and reiterated that, on balance, she considered that Councillor Boeck had been acting in his capacity as a Councillor. She did however accept that greater clarity could be provided in the Code of Conduct and Social Media Policy on the use of social media by Councillors, and the matter of capacity.

Ms Howlett added that she had considered this point very carefully and explained that Councillor Boeck's high profile tipped the balance on her view that he was acting in his capacity as a Councillor. If the complaint related to a lower profile, backbench Member then she might have reached a different conclusion.

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The Complainant – Mr Thomas Tunney in addressing the Committee raised the following points:

- That he had nothing to add to the information that was already included in the paperwork.

Questions and Answers – the Committee

Councillor Anthony Pick noted that at the time of the incident Councillor Boeck only had around 120 to 130 followers on his twitter account and he asked Mr Tunney whether he considered this was a relatively small number to make a complaint about. Mr Tunney responded by saying that he did not agree with this assertion and that anything in the public domain could be deemed to be disrespectful irrespective of the number of people that followed a Twitter user.

Councillor Pick noted that a complaint, about the tweets, had been made to the Newbury Labour Party's Executive Committee (NLPEC) by a resident and he queried if this person was someone from the Lesbian, Gay, Bisexual, and Transgender (LGBT) community. Mr Tunney stated that he would rather not comment on the identity of the person who had complaint to the NLPEC.

Councillor Paul Bryant asked Mr Tunney if the sole reason he had submitted the complaint was because it had been brought to his attention by an individual and Mr Tunney confirmed that it was.

Sarah Clarke stated that it was irrelevant if the person who had raised the concern with the complainant had any protected characteristics or not. The role of the Committee was simply to determine if the tweets were disrespectful or not.

Councillor Jeff Beck stated that the paperwork presented to the Committee appeared to be contradictory in terms of the apology made by Councillor Boeck. On page 45 (Investigator's Report) of the agenda it stated that "Mr Tunney, the complainant, did not accept the apology as being sincere." However on page 46 of the agenda it stated that "Councillor Boeck has made the point that others, including Newbury Labour Party, accepted his apology graciously (on 10th April it welcomed the change of heart and looked forward to his future contributions to the social media debate)." Mr Tunney explained that in his personal opinion the apology was not sincere but that the Newbury Labour Party had decided to accept Councillor Boeck's apology.

Councillor Beck sought clarity on who should be deemed to be the complainant. Mr Tunney explained that the matter had been raised with him by an individual. He had then discussed the submission of a complaint and sought permission from the NLPEC to submit it as he would not do anything that could implicate them without their permission. Ms Julie Wintrup commented that the NLPEC had worked together on a joint submission. Sarah Clarke stated that the Committee should consider Mr Tunney to be the complainant.

Ms Wintrup in addressing the Committee and answering queries raised the following points:

- Councillor Boeck was a councillor in a small local community;
- He held a high profile position within the Administration;
- Councillors were expected to abide by high standards of behaviour and in her opinion they should be deemed to be Councillors, and therefore representing the Council, at all times, twenty four hours a day seven days a week.
- Social media was no longer such a grey area and any comments on social media should be treated the same as comments made in other forms of media.

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- They disagreed with the Investigator's conclusion that thread one was political tit for tat and had set out their detailed reasons for doing so on pages 51 to 56 of the agenda.
- The comments made by Councillor Boeck did not refer to Eddie Izzard's (a high profile transgender person) political views, they merely commented on his appearance and that he presented as non-binary. They could therefore not see how these comments could be deemed to be 'political debate'.
- Councillor Boeck's comments were insulting to an especially vulnerable group of people and she was concerned about the message Councillor Boeck's tweet could have on other transgender people.
- Retweeting comments, even if it was only to 130 followers, could not be seen as anything but endorsing the views of others who had commented.

(The meeting was adjourned from 10.40am to 10.45am)

The Subject Member – Councillor Dominic Boeck in addressing the Committee raised the following points:

- He had lived in Thatcham, West Berkshire since 1988.
- He first stood as a candidate in the local elections in 2007, motivated by his wish to contribute more to the community that had embraced his family.
- He was unsuccessful in the 2007 elections but in 2011 he was returned to West Berkshire Council and Thatcham Town Council to represent the Thatcham South and Crookham Ward.
- He joined the Executive in 2014.
- The Twitter account he presently used had been active since 2009. Initially he only used it for private purposes, mainly in following other users.
- In 2015 he started to use Twitter more actively and to engage in political exchanges, although he still considered his usage to be 'light'. His Twitter profile had remained relatively unchanged from 2009 until recently.
- At the time of the complaint he had not considered whether he was acting in his capacity as a Councillor on Twitter and it was not his intention to portray himself as such. He noted the conclusion of the Independent Investigator and the Advisory Panel that he was acting in his capacity as a Councillor but he did not consider that the political dialogues that he was part of fell into the categories of activities set out in the Code of Conduct.
- The dialogues were confined to the 121 followers he had at the time who were friends, activists, political organisations, journalists and businesses.
- He never meant to retweet the wrong and offensive comments by another user that was the subject of the complaint.
- At that time he considered that he was acting as a private individual and if he had realised then that he might have been perceived as Councillor Boeck he would have taken much more care.

Questions and Answers – the Committee

Councillor Pick asked the Subject Member if he was content with the statement he made in his response to the complaint that he absolutely did not believe that anyone with gender identity issues was mentally ill. Councillor Boeck confirmed that this was his firm

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belief, he added that he had worked with transgender people and had family members also.

The Subject Member's response to the complaint also referred to support he had received from a previous Labour Party Parliamentary candidate and Councillor Beck queried who this individual was. Councillor Boeck explained that this was Richard Garvey.

In response to a question from Councillor Quentin Webb, Councillor Boeck explained that he had not identified himself as a Councillor or Executive Member in any tweets. He had tweeted in his role as a Councillor, but these were very small in number.

Councillor Boeck went on to explain that his current Twitter profile stated that he was the Ward Member for Aldermaston and a Lead Member at West Berkshire Council. At the time of the complaint however his profile only contained a photograph of himself taken before he was elected to West Berkshire Council in 2010.

Councillor Pick queried Councillor Boeck's motive for retweeting thread two. The Subject Member explained, as per his submission to the Advisory Panel, that he was interested in this story which involved a student in America expressing a view on gender identity which was disagreed with by the College Professor, the student was then ejected from their class. His interest was in relation to a suppression of or threat to freedom of speech. This was the only point that he wished to highlight by his retweet and should have done so independently. Inadvertently his retweet included the post that equated a transgender person as being mentally ill which was something he absolutely did not agree with.

Councillor Graham Bridgman in addressing the Committee and answering queries raised the following points:

- He was an adjacent Ward Member to Councillor Boeck and would speak on the Subject Member's behalf if a breach was found.
- However, he did state that he was a Member of the Code of Conduct Task Group that produced the existing Code of Conduct provided in the paperwork. Councillor Bridgman commented on the point of the capacity under which a Councillor was acting, i.e. acting in their capacity as a Councillor and where a councillor was not acting with capacity. Councillor Bridgman acknowledged that this was an area needing further work, particularly in relation to social media.
- However, there was a need to interpret this from the existing Code. The Code sought to distinguish the difference between acting and not acting in the capacity of Councillor. The Code applied to Councillors and Co-opted Members when they were acting, claiming to act or giving the impression that they were acting in the said capacity. Councillor Bridgman was not of the view that a Councillor was acting in their role 24 hours a day, seven days a week and the fact that the Code did distinguish between the different capacities supported that.
- Councillor Bridgman then turned to the definitions in Appendix 1 to the Code. This gave three elements of where a Councillor was acting in their capacity and Councillor Bridgman reiterated the view that only the first point 'acting as a representative of the Council' could apply in this case. This had been the definition in the previous version of the Code of Conduct.
- He referred back to the point made by the Independent Investigator and her view on whether this complaint was in relation to a frontbench or backbench Member, which influenced her view on the capacity question. Councillor Bridgman did not share the view of Ms Howlett, he considered that the Code, and any breach of it by a Member, should apply regardless of this status.

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- Councillor Bridgman therefore questioned whether Councillor Boeck was acting as a representative of West Berkshire Council when he made the retweet, regardless of his profile as an Executive Member. Councillor Bridgman explained that at the time of the complaint, Councillor Boeck was not the Chairman of the Health and Wellbeing Board, although he was an Executive Member. He was elected to that role after these retweets had taken place.

Questions and Answers – the Committee

Councillor Barry Dickens commented that from the point of view of a non-involved member of the public, they would not consider the point of capacity and this was to some degree irrelevant. Members of the public would consider a Councillor to be holding their office at all times. To a member of the public this retweet would be concerning.

Councillor James Cole asked Councillor Bridgman if he felt that all Councillors should be subject to a stricter approach to the use of social media. Councillor Bridgman repeated his view that the Code needed further attention in relation to social media. This case had brought out questions regarding interpretation of capacity. Councillor Bridgman pointed out that a different interpretation had been found by himself, the Independent Investigator and the Complainant. The social media element made this more difficult to determine.

Councillor Bridgman acknowledged the points made by Councillor Dickens but stated that the consideration for the Committee had to be on the current Code that was before them.

Councillor Webb sought to understand whether the Subject Member had a separate Twitter account as a Councillor. Councillor Boeck confirmed that he had a single Twitter account. At the time of the complaint, he did not identify himself as a Councillor on his account. He had since changed this and his account stated that he was a Councillor, Ward Member for Aldermaston and an Executive Member.

Closing

The Chairman asked the Investigator if there were any issues that she would like to clarify or respond to and Ms Howlett stated that there was nothing she wished to add.

The Chairman asked the complainant if there were any issues that he would like to clarify or respond to. Ms Wintrup stated that she was interested to note the comment made by Councillor Bridgman that at the time of tweeting Councillor Boeck was not the Portfolio Holder for Health and Wellbeing. He had been appointed to this role after the comments were made and she stated that she did not know if this was better or worse. She noted that Councillor Boeck had stood down from his role as Portfolio Holder for Health and Wellbeing but she stated that promoting equality and mental health was the responsibility of all Portfolio Holders.

Councillor Anthony Pick queried if the second tweet, however offensive the remark was, should be deemed to be disrespectful to people with a mental illness or transgender people? Julie Wintrup stated that this class of people, especially young people, tended to suffer from mental health issues associated with uncertainty around their gender. They had a higher rate of suicide and were consequently often vulnerable and therefore this tweet should be deemed to be insulting.

The Chairman asked the Subject Member if there were any issues that he would like to clarify or respond to and Councillor Boeck stated that there was nothing he wished to add.

(The meeting was adjourned from 11.16am to 12.15pm)

Decision as to whether a breach had occurred

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The Chairman welcomed everyone back to the Chamber and thanked all parties for their patience. The Chairman announced that the Committee has resolved, after considering the written and oral information presented to it that day, that in relation to the complaint made by Mr Thomas Tunney on behalf of Newbury Constituency Labour Party's Executive Committee on 3 April 2018 that Councillor Dominic Boeck had breached West Berkshire Council's Code of Conduct:

1. That they concurred with the Investigator's finding that Councillor Boeck was “*acting, claiming to act or giving the impression of acting in his capacity as a Councillor” even though he may not have intended that.
*To quote the West Berkshire Code of Conduct for Councillors.
2. That they concurred with the Investigator's finding that Councillor Boeck did not make the comment or retweet the threads, using resources issued to him by the Council and that in all likelihood all the social media activity took place on Councillor Boeck's iPhone which was his own personal property.
3. That, in relation to thread one, the comments made by Councillor Boeck about Eddie Izzard on his Twitter account constituted robust political debate or political comment and therefore the comments were not disrespectful, bullying or intimidating.
4. That, in relation to thread two, where Councillor Boeck had retweeted the comments offered by BrexitTory even if he had acted carelessly or in haste, he had not contradicted the opinion offered. In retweeting the comments it could be concluded that he supported the view that transgender people were mentally ill. His behaviour could therefore be deemed to be disrespectful and therefore Councillor Boeck had breached the Council's Code of Conduct.
5. The Committee also considered that thread two, whilst of itself contrary to the regulations pertaining to equality, did not amount to a separate breach of the Code of Conduct.

Sanctions

The Chairman stated that as the Committee had determined that a breach of West Berkshire Council's Code of Conduct had occurred he would like to invite the Monitoring Officer to address the Committee as to whether the Committee should take any action against Councillor Boeck and what form any sanction should take.

Sarah Clarke explained to Members of the Committee that the sanctions available to them were set out on page 65 of the agenda. The sanctions were a matter for this Committee to determine and any sanctions imposed should be both reasonable and proportionate. The Committee needed to have regard to the specific breach identified and the facts relevant to that breach.

The Committee also needed to take cognisance of any mitigation put forward by the Subject Member. Members should have regard to what the Subject Member's intention was, in other words did he intend to cause offence and had he disregarded the Council's Code of Conduct.

The Committee should consider the steps subsequently taken by the Subject Member including the fact that he had removed the offending tweet, he had made a public apology on more than one occasion for offence caused by his action, he had co-operated with the Investigator and the investigation and that he had resigned from his post as Portfolio Holder for Health and Wellbeing.

Sarah Clarke also stated that Members might also have regard to the fact that the Social Media Protocol should have been updated in 2016 and that the current version did not

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offer any advice or set suitable parameters around tweeting. This was a rapidly changing area and the Protocol needed to be updated to reflect this. The Advisory Panel had noted this and asked that the Protocol be updated as part of their recommendations.

The Chairman then invited Councillor Boeck to make representations by way of mitigation and to explain which sanctions he felt would be most appropriate in this case.

The Subject Member – Councillor Dominic Boeck in addressing the Committee raised the following points:

- He believed that he was well respected by those who knew him well and he always tried to put the residents of Aldermaston Ward and West Berkshire first in all he did as a Councillor.
- He understood the Nolan Principles and his instinctive behaviour tended to mirror them well.
- This complaint was the first one that had ever been brought against him whether formally or informally, as far as he was aware.
- The tweet that the Committee had ruled to be a breach of the Code of Conduct came about through his interest in a story of a threat to freedom of speech. It was his intention to retweet only this story but he inadvertently included the wrong and offensive comments from another user.
- When he found out that his tweet had offended others he immediately regretted posting it and sought advice from friends on how best to redress the matter. He decided to make an apology through Twitter to clarify his personal views and to disassociate himself from the views he had mistakenly retweeted.
- His apology drew supportive comments on Twitter from private individuals and from the Newbury Labour Party.
- He thanked Ms Howlett for her investigation and for the well-balanced report she had produced.
- He had made a mistake that he regretted and it was a mistake that he would not make again. It was a mistake that did not reflect any view that he held.
- He had been brought up to treat others with respect and he had always tried his best to do so. In this case, he had failed and he accepted the Committee's conclusion that through one retweet he was in breach of the Code of Conduct.
- He felt that the complainant had set out to portray him as a peddler of a high profile stream of discriminatory material that posed a threat to the wellbeing of residents.
- Most of his tweets were about local issues and events, sometimes relating to his friends and family sometimes about what he had been doing. He had retweeted material critical of other political parties.
- The complainant had tried to identify him as an individual who deliberately incited division and discrimination and they attributed beliefs to him that were far from those that he actually held.
- He had welcomed the request from the Leader of the Council, Graham Jones, to take the lead on Public Health and Wellbeing, Culture and Leisure. He saw the role as being important and challenging with the potential to bring about significant change for the good of all of the district's residents.
- He had always tried his best to treat others with respect and he was certain that he would never deliberately seek to harm or disadvantage anyone.

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- The previous week he had concluded that this process had become such a distraction that the important work of the Health and Wellbeing Board was at risk of being impaired and he had reluctantly tendered his resignation to the Leader.
- He accepted that he had breached the Code of Conduct in respect of one tweet but questioned the severity of the sanctions recommended by the Advisory Panel.
- He asked the Committee to consider whether the sanctions reflected a deliberate act that succeeded in causing severe harm and widespread horror or a careless slip with unfortunate consequences.

Councillor Bridgman in addressing the Committee raised the following points:

- He was in attendance as an adjacent Ward Member and fellow Councillor.
- In terms of sanctions he accepted that it was not Councillor Boeck's intention to give the impression that was taken.
- He reiterated that at the time he had retweeted the comments, Councillor Boeck was not the Portfolio Holder for Health and Wellbeing.
- Councillor Boeck had already apologised for his actions and had done so shortly after the concerns were brought to his attention.
- He did not believe that the sanctions recommended by the Advisory Panel were appropriate.

(The meeting was adjourned from 12.30pm to 1.09pm)

The Chairman stated that after carefully considering all the information, both written and oral, presented to the Committee it had been determined that the following sanction should be applied:

1. A formal letter would be sent to the Subject Member by the Chairman of the Governance and Ethics Committee, indicating that he had failed to comply with West Berkshire Council's Code of Conduct. The letter would be sent within 15 clear working days of the meeting.

In reaching a decision as to which sanctions to apply the Committee had given regard to the advice of the Monitoring Officer that any sanction should be both proportionate and reasonable.

The Committee accepted that the Subject Member did not intend to cause offence and that the thread was re-tweeted inadvertently.

The Committee noted in particular the steps that the Subject Member had already taken, regarding this matter, including:

1. He had removed the offending tweet.
2. He had made a public apology on more than one occasion for offence caused by his action. The Committee accepted the finding of the Independent Investigator that Councillor Boeck's apology was genuine.
3. He had co-operated with the Investigator and the investigation.
4. He had resigned from his post as Portfolio Holder for Health and Wellbeing.

RESOLVED that after carefully considering both the written evidence submitted and the oral evidence given at the hearing, the Committee found that in respect of the complaint made by Mr Thomas Tunney on behalf of Newbury Constituency Labour Party's Executive Committee on 3 April 2018, Councillor Dominic Boeck had breached West Berkshire Council's Code of Conduct. In reaching that decision, the Committee resolved:

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1. That they concurred with the Investigator's finding that Councillor Boeck was "acting, claiming to act or giving the impression of acting in his capacity as a Councillor" even though he may not have intended that.

*To quote the West Berkshire Code of Conduct for Councillors

Reason: Although these two threads did not refer to Council business and Councillor Boeck's profile, at the time he retweeted the threads which were the subject of the complaint, did not identify himself as a Councillor he acknowledged that there were references to Council business on his twitter account, a number of the tweets were of a political nature and that he did use his twitter account for Council business.

Councillor Boeck was a member of the Executive at the time of the incidents and the Council's Social Media Protocol for Councillors stated that "be aware that the higher your profile as a councillor, the more likely it is you will be seen as acting in your official capacity when you blog or network".

The Committee therefore felt that any reasonable person looking at his twitter feed would perceive that Councillor Boeck was acting in his capacity as a Councillor.

2. That they concurred with the Investigator's finding that Councillor Boeck did not make the comment and retweeted the threads, using resources issued to him by the Council and that in all likelihood all the social media activity took place on Councillor Boeck's iPhone which was his own personal property.

Reason: There was no information presented to indicate that Councillor Boeck had used his Council equipment and Councillor Boeck had stated that he had used his personal phone for social media activity.

3. That, in relation to thread one, the comments made by Councillor Boeck about Eddie Izzard on his twitter account constituted robust political debate or political comment and therefore the comments were not disrespectful, bullying or intimidating.

Reason: The Committee agreed with the assertion of the Independent Investigator that the tweet amounted to political comment and was not a personally directed insult and could therefore not be deemed to be disrespectful.

4. That, in relation to thread two, where Councillor Boeck had retweeted the comments offered by BrexitTory even if he had acted carelessly or in haste he had not contradicted the opinion offered. In retweeting the comments it could be concluded that he supported the view that transgender people were mentally ill. His behaviour could therefore be deemed to be disrespectful and therefore Councillor Boeck had breached the Council's Code of Conduct.

Reason: The Committee stated that retweeting a comment that linked transgenderism to mental illness, without a qualifying comment to the contrary, could be seen by any reasonable person to be endorsing the comment.

5. The Committee also considered that thread two, whilst of itself contrary to the regulations pertaining to equality, did not amount to a separate breach of the Code of Conduct

Reason: The Committee commented that in retweeting the comment Councillor Boeck had not bound the Council by his actions and therefore he had not done anything which would have caused the Council to breach any of the equality enactments as defined in legislation.

Sanctions Imposed and the Reasons for the Sanctions

GOVERNANCE AND ETHICS COMMITTEE - 8 AUGUST 2018 - MINUTES

After carefully considering all the information, both written and oral, provided to the Committee they determined that a formal letter would be sent to the Subject Member by the Chairman of the Governance and Ethics Committee, indicating that he had failed to comply with West Berkshire Council's Code of Conduct. The letter would be sent within 15 clear working days of the meeting.

In reaching a decision as to which sanctions to apply the Committee had given regard to the advice of the Monitoring Officer that any sanction should be both proportionate and reasonable.

The Committee accepted that the Subject Member did not intend to cause offence and that the thread was re-tweeted inadvertently.

The Committee noted in particular the steps that the Subject Member had already taken, regarding this matter, including:

1. He had removed the offending tweet.
2. He had made a public apology on more than one occasion for offence caused by his action. The Committee accepted the finding of the Independent Investigator that Councillor Boeck's apology was genuine.
3. He had co-operated with the Investigator and the investigation.
4. He had resigned from his post as Portfolio Holder for Health and Wellbeing.

(The meeting commenced at 10.00am and closed at 1.11pm)

CHAIRMAN

Date of Signature