

Notice of Meeting



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Special Governance Committee

Thursday 29 August 2024 at 5.30pm

in the Council Chamber, Council Offices,
Market Street, Newbury

Note: This meeting can be streamed live here: <https://www.westberks.gov.uk/governanceethicscommitteelive>

Date of despatch of Agenda: Friday 23 August 2024

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Stephen Chard on 01635 519462
e-mail: stephen.chard@westberks.gov.uk

Further information and Minutes are also available on the Council's website at www.westberks.gov.uk



WestBerkshire
C O U N C I L

Agenda - Governance Committee to be held on Thursday, 29 August 2024 (continued)

- To:** Councillors Erik Pattenden (Chairman), Howard Woollaston (Vice-Chairman), Dominic Boeck, Jeremy Cottam, Laura Coyle, Billy Drummond, Owen Jeffery, David Marsh, Christopher Read, Simon Carey and David Southgate
- Substitutes:** Councillors Anne Budd, Dennis Benneyworth, Carolyne Culver, Paul Dick, Janine Lewis and Stephanie Steevenson
-

Agenda

Part I

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2 Declarations of Interest To remind Members of the need to record the existence and nature of any personal, disclosable pecuniary or other registrable interests in items on the agenda, in accordance with the Members' Code of Conduct .	3 - 4

Standards Matters

3 NDC0623 <i>Purpose: 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 the then Councillor Steve Masters (Complainant) in respect of Councillor Ross Mackinnon (Subject Member) from West Berkshire Council submitted on 23 March 2023.</i> <i>Should the Committee determine that a breach of the Code of Conduct has occurred they will need to determine an appropriate sanction.</i>	5 - 8
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Agenda - Governance Committee to be held on Thursday, 29 August 2024 (continued)

- 4 **NDC0124** 133 - 136
- Purpose: 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 Councillor Tony Vickers (Complainant) in respect of Councillor Ross Mackinnon (Subject Member) from West Berkshire Council submitted on 25 January 2024.*
- Should the Committee determine that a breach of the Code of Conduct has occurred they will need to determine an appropriate sanction.*
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Sarah Clarke
Service Director: Strategy and Governance

West Berkshire Council is committed to equality of opportunity. We will treat everyone with respect, regardless of race, disability, gender, age, religion or sexual orientation.

If you require this information in a different format or translation, please contact Stephen Chard on telephone (01635) 519462.

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Agenda Item 1

Special Governance Committee – 29 August 2024

Item 1 – Apologies for absence

Verbal Item

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Agenda Item 2

Special Governance Committee –29 August 2024

Item 2 – Declarations of Interest

Verbal Item

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Complaint: NDC0623

Committee considering report: Special Governance Committee

Date of Committee: 29 August 2024

Purpose of the Report

To consider the Investigator's report about a complaint received from the then Councillor Steve Masters (*complainant*) in respect of Councillor Ross Mackinnon (*Subject Member*) from West Berkshire District submitted on 23 March 2023.

Recommendations

The Committee is asked to:

- a) consider if they agree with the outcome of the Advisory Panel that took place on 25 June 2024;
- b) identify any disputed facts;
- c) identify any aspects of the report that require further clarification;
- d) agree on a suitable sanction if they agree that a breach of the Code of Conduct has occurred.

Paragraphs of the Code of Conduct that the complaint might relate to:

Failure to adhere to the following Nolan Principles:

- Personal Judgement
- Respect for other
- Leadership

General Obligations:

4.1(a). Councillors and Co-opted members must treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.

4.2(a). Councillors and Co-opted members must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.

4.2(f). Councillors and Co-opted members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

1 Monitoring Officer's Report

Introduction

- 1.1 A complaint dated 23 March 2023 was received from the then Councillor Steve Masters (Complainant), concerning an alleged breach of the Code of Conduct by Councillor Ross Mackinnon (Subject Member). At the time, Councillor Masters was a Green Party Councillor representing the ward of Newbury Speen. Councillor Mackinnon is a Conservative Councillor representing the ward of Bradfield and is currently the Leader of the Opposition and Shadow Portfolio Holder for Strategy and Communications, Finance, Corporate Services, Regeneration, Growth and Strategy Development.
- 1.2 The complaint was considered by the Assessment Sub-Committee of West Berkshire Council's Governance Committee on 13 April 2023 where, taking account of the views of the Independent Person, the Deputy Monitoring Officer determined that the matter be dealt with via an informal resolution, namely that the Subject Member issue an apology to the Complainant.
- 1.3 However, the apology was not provided and therefore the complaint was referred for a full investigation by an independent investigator on the basis that the Subject Member does not accept the informal resolution.
- 1.4 Mr Richard Lingard was appointed to investigate the matter on behalf of West Berkshire Council.

2 Procedure

- 2.1 In considering the complaint, Mr Lingard sets out in his report (Appendix A) that he considered the complaint, the Subject Member's response, and associated documentation which included the reproduction of exchanges of posts on social media.

- 2.2 In addition, Mr Lingard interviewed both the Complainant (on 3 April 2024) and Subject Member (on 19 April) via Zoom. He also spoke with three further people, at the Complainant's request. These were serving CouncillorCarolyn Culver and two former councillors, both of whom asked to remain anonymous.
- 2.3 Mr Lingard had available to him West Berkshire Council Code of Conduct for Members.

3 Outcome of independent investigation

- 3.1 In considering the Code of Conduct paragraph 4.1 (a), the independent investigator found that there was evidence of a breach with the Subject Member failing to show courtesy or respect to the Complainant.
- 3.2 In considering the Code of Conduct paragraph 4.2 (a), the independent investigator considered that while the insult used by the Subject Member towards the Complainant was childish and totally inexcusable, he found no breach of this paragraph of the Code.
- 3.3 In considering the Code of Conduct paragraph 4.2 (f), the independent investigator found that there was evidence of a breach as he considered that the Subject Member conducted himself in a manner which could reasonably be regarded as bringing his office and his Council into disrepute.

4 Advisory Panel

- 4.1 The Advisory Panel considered the complaint and the independent assessment. In addition, they benefited from the Investigator's attendance to clarify any points in the assessment and ask questions.
- 4.2 The Advisory Panel concurred with the findings of the independent investigator and therefore referred the matter to the Governance Committee in line with the Constitution.
- 4.3 The Advisory Panel did not form a view on a suitable sanction should the Governance Committee concur with the findings that a breach of the Code of Conduct had occurred.
- 4.4 The Advisory Panel recommended that the following people be invited to attend the Special Governance Committee:
- (a) Investigator (Mr Richard Lingard)
 - (b) Complainant
 - (c) Subject Member
 - (d) Monitoring Officer

5 Order of Business for Governance Committee

- 5.1 The Governance Committee must consider the information provided as part of the standards complaint that includes:
- a) The original complaint

- b) The Subject Member's response
 - c) Independent Assessment by Mr Richard Lingard
 - d) Responses from the Complainant and the Subject Member
 - e) Minutes of the Advisory Panel and the recommendation
- 5.2 There is an opportunity for the Complainant or their representative to raise any issue in the Independent Report that they have disputed in their written submission, and they may wish to introduce witnesses on these points.
- 5.3 The Subject Member may make a presentation and they may only raise issues in the report that they have disputed in their written submission.
- 5.4 It will be for the Governance Committee to consider the evidence and representations and shall then make a final determination on the matter.

6 Outcome

- 6.1 Should the Governance Committee determine there is no breach then there will be no further action and the matter will be closed.
- 6.2 Should the Governance Committee determine that there is a breach of the Code of Conduct, then they must consider the sanctions available:
- a) Formal letter from the standards Committee
 - b) Remove from Committee via Group Leader
 - c) Formal censure via motion to Council
 - d) Press release
 - e) Local Resolution

Appendices

Appendix A – West Berkshire Council's Code of Conduct

Appendix B – Complaint and associated paperwork

Appendix C – Response to complaint by the Subject Member

Appendix D – Initial Assessment Notice

Appendix E – Investigator's Report (which includes comments from the Complainant and Subject Member on the report)

Appendix F – Advisory Panel Decision Notice

Appendix G – Sanctions which can be applied

Agenda Item 3a

West Berkshire Council Councillors' Code of Conduct (September 2016)

1. Introduction

The initial version of this Code of Conduct ("this Code") was adopted by the [Council](#) at its meeting on 10 May 2012 and confirmed at its meeting on 16 July 2012 pursuant to the duty to promote and maintain high standards of conduct by [Councillors](#) and others set out in the [Localism Act 2011](#) ("the Act"). It came into effect on 1 July 2012 and revisions were adopted on 12 December 2013 and 15 September 2016.

2. Gifts and Hospitality Protocol and Appendices

- 2.1 The [Councillors' Gifts and Hospitality Protocol](#) is an associated document to be read in conjunction with this Code.
- 2.2 [Appendix 1](#) contains definitions used in this Code and its Appendices (or identifies where they may be found). Within the electronic version of this Code defined words or phrases are hyperlinked for ease of reference (on the first occasion they appear): to the relevant definition within Appendix 1 or elsewhere within the Appendices as relevant; or to an external document (eg legislation).
- 2.3 [Appendix 2](#) contains the [Ten Principles of Public Life](#) ('the Nolan Principles').
- 2.4 [Appendix 3](#) gives guidance for declaring and registering interests.
- 2.5 [Appendix 3a](#) sets out the prescribed definitions relating to [Disclosable Pecuniary Interests](#).
- 2.6 [Appendix 3b](#) contains a flow chart relating to the declaration of interests.
- 2.7 [Appendix 4](#) sets out the rules relating to [Dispensations](#).
- 2.8 [Appendix 5](#) sets out the process for investigating alleged breaches of this Code.

3. Application

- 3.1 This Code applies to Councillors and [Co-Opted Members](#) (eg whenever they are acting, claiming to act, or giving the impression they are acting in their [Capacity](#) as a Councillor or Co-Opted Member). Where a [councillor](#) is not acting with Capacity no breach of this Code is likely to occur.
- 3.2 It is a Councillor's or a Co-Opted Member's personal responsibility to comply with this Code.
- 3.3 This Code is consistent with and based upon the Ten Principles of Public Life (also known as the Nolan Principles).
- 3.4 Should a complaint be made against a Councillor or Co-Opted Member it will be dealt with in accordance with the Act and its supporting regulations.
- 3.5 If a Councillor or Co-Opted Member needs any guidance on any matter relating to this Code, they should seek it from the [Monitoring Officer](#) or their own legal adviser (but it is repeated that it is entirely their personal responsibility to comply with the provisions of this Code).

4. General Obligations

4.1 Councillors and Co-Opted members **must**:

- (a) Treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.
- (b) When involved in the decision making of the Council:
 - (i) ensure that they are aware of and comply with the requirements of the [Bribery Act 2010](#);
 - (ii) have regard to any advice provided to them by the Council's Chief Financial Officer or Monitoring Officer pursuant to their statutory duties;
 - (iii) give reasons for decisions made in accordance with any legal requirements and/or reasonable requirements of the Council.
- (c) 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.
- (d) Have regard to the applicable Local Authority Code of Publicity under the Local Government Act 1986.

4.2 Councillors and Co-Opted Members **must not**:

- (a) Engage in [bullying or intimidating behaviour](#) or behaviour which could be regarded as bullying or intimidation.
- (b) Do anything which may cause the Council to breach any of the equality enactments as defined in section 33, Equality Act 2006.
- (c) Disclose information given to them in confidence or information acquired by them which they believe or are aware is of a confidential nature except where:
 - (i) they have the consent of a person authorised to give it;
 - (ii) they are required to do so by law;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice;
 - (iv) the disclosure is reasonable and in the public interest;
 - (v) the disclosure is made in good faith and in compliance with the reasonable requirements of the Council or its professional advisers.
- (d) Prevent another person from accessing information if that person is entitled to do so by law.
- (e) Improperly use knowledge gained solely as a result of their role as a Councillor for the advancement of their Disclosable Pecuniary Interests.
- (f) Conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

5. Interests, Dispensations, Sensitive Interests and Bias

- 5.1 Councillors **must** declare any interests (Disclosable Pecuniary Interests, [Other Registrable Interests](#) and [Personal Interests](#)) that relate to their public duties and **must** take steps to resolve any conflicts arising in a way which promotes openness and transparency, including registering and declaring interests in a manner conforming with the procedures. Further guidance is contained within Appendix 3.
- 5.2 Councillors who have a Disclosable Pecuniary Interest may apply for a Dispensation to enable them to speak and/or vote at a [Meeting](#) on the specific grounds set out in the Dispensation Procedure in Appendix 4.
- 5.3 If the Monitoring Officer agrees that an interest is a [Sensitive Interest](#) the Councillor **must** disclose its existence at a relevant Meeting but is not required to provide specific details (see Appendix 3). The Monitoring Officer shall also exclude the details of the Sensitive Interest from the published version of the Register of Interests.
- 5.4 When exercising a quasijudicial function (eg Planning, Licensing and Appeals), interests which do not qualify as Disclosable Pecuniary Interests or Other Registrable Interests could nevertheless lead a reasonable member of the public to conclude that there was a real possibility of bias on the part of a Councillor. In such circumstances the Councillor should not participate in the decision making process (ie the Councillor should not vote nor, unless they are requested to do so by the Chairman of the Meeting on a point of clarification, speak on the matter). The interest should be registered with the Monitoring Officer.

6. Gifts and Hospitality

Councillors **must** disclose and record any [gift or hospitality](#) they are offered or receive in accordance with the Councillors' Gifts and Hospitality Protocol.

7. Alleged breaches of this Code

- 7.1 Any allegation that a Councillor has breached this Code will initially be considered by the Monitoring Officer in consultation with one of the [Independent Persons](#). Where a matter is referred for investigation the Governance and Ethics Committee's Advisory Panel will consider the findings of the investigation. The Advisory Panel shall be chaired by an Independent Member and make recommendations to the Governance and Ethics Committee for final decision.
- 7.2 Appendix 5 is a flowchart outlining the process for dealing with alleged breaches of this Code.

West Berkshire Council Councillor's Gifts and Hospitality Protocol

September 2016

1. Introduction

This Protocol is intended to complement the [Councillors' Code of Conduct](#). It offers guidance to [Councillors](#) with regard to best practice and the need to preserve integrity and demonstrate good governance. It has been written to protect both individual Councillors and the [Council](#) itself. The intention of this Protocol is to ensure that the Council can demonstrate that no undue influence has been applied or could be said to have been applied by any supplier or anyone else dealing with the Council and its stewardship of public funds.

This Protocol adopts the definitions in [Appendix 1](#) to the Code.

This Protocol sets out Councillors' obligations to declare any relevant gifts and hospitality which might be offered to or received by them in their [Capacity](#) as a Councillor or to their spouse or partner as a result of their relationship with the Councillor.

The corollary of this is that gifts and hospitality offered to a [councillor](#) in their private capacity, of whatever value, do not need to be registered at all. Further, this Protocol does not apply to the acceptance of any facilities or hospitality which may be provided to a councillor by the Council.

It is the Councillor's responsibility to ensure any gifts and hospitality received or offered to them or their spouse/partner are declared to the Council's [Monitoring Officer](#) in accordance with the agreed procedures.

Transparency is the issue: councillors should always consider whether any gifts or hospitality could be seen as being connected with their public role as a Councillor. It is public perception that matters.

A breach of this Protocol amounts to a breach of the Code and a complaint can be reported to the Monitoring Officer or the Governance and Ethics Committee and dealt with in accordance with the [process for alleged breached of the Code](#).

2. The Rules

(a) A Councillor or their spouse/ partner must never:

- accept a gift or hospitality as an inducement or reward for anything which they do as a Councillor; or
- accept a gift or hospitality which might be open to misinterpretation; or
- accept a gift or hospitality which puts them under an improper obligation; or
- solicit a gift or hospitality.

(b) Prior to the acceptance of any hospitality with a value of £25 or more, a Councillor should whenever possible seek authorisation from the Monitoring Officer, and only if consent has been given should the Councillor or their spouse/partner accept the hospitality.

(c) A Councillor must register every individual gift or item of hospitality over £25 in value that is offered to them and indicate whether or not it was accepted.

(d) A Councillor's registration of the gift or hospitality must be made within 28 days of the date of offer or receipt as the case may be.

(e) Registration is made by a declaration in writing to the Member Services Officer(s) working on behalf of the Monitoring Officer, preferably electronically (eg by email), and giving details of:

- the value (or estimated value) and details of the gift or hospitality offered or received;
- if the gift or hospitality has been accepted, the reason for that acceptance;
- whether to the Councillor's knowledge the donor of the gift has, or has had in the past, or is likely to have in the future, dealings with the Council.

(f) A Councillor should be aware of serial givers or repeat offers of hospitality as these may indicate a pattern of behaviour that might result in a breach of the Code of Conduct.

(g) An offer of a gift or hospitality that appears over-generous must be declined; it could be seen as an inducement to affect a Council decision.

(h) Even if all Councillors, or a large number of them, are offered or receive the same gift or hospitality, they must each make individual notifications.

Please note that the press and public have the right to inspect gift and hospitality declarations as submitted (and that Officers cannot edit the declarations).

Guidance

3. Should a Councillor accept gifts and hospitality?

It is not sufficient just to register gifts or hospitality; a Councillor **must** consider whether it is appropriate or sensible to accept them in the first place. The general test of caution is one of common sense and perception, ie would a reasonable member of the public question the appropriateness of hospitality or gifts offered to or received by the Councillor or their spouse/partner? If a Councillor is concerned the acceptance could be misinterpreted they **must** decline it and declare it.

A Councillor or their spouse/ partner **must never** solicit a gift or hospitality, or accept any gift or hospitality offered as an inducement or which puts them under any obligation.

Particular care must be taken in relation to gifts and hospitality offered by current or potential contractors for the Council. In certain cases, the acceptance of a gift or hospitality from these sources could constitute a criminal offence, even if declared. If there is any suspicion that any offer is intended as an inducement, then the matter **must** be reported in accordance with established procedures.

The Bribery Act 2010 has offences of "bribing another person" (active bribery) and of "being bribed" (passive bribery). The offences consist of "promising, offering or giving" or "requesting, agreeing to receive or accepting an advantage (financial or

otherwise)” in circumstances involving the improper performance of a relevant function or activity.

In the context of the Council the relevant function or activity means a public activity which a reasonable person would expect to be performed in good faith, impartially or in a particular way by a person performing it in a position of trust. There is a maximum penalty of 10 years’ imprisonment or an unlimited fine for these offences.

4. Must a Councillor register all gifts and hospitality that they are offered?

A Councillor **must** register any gift or hospitality worth £25 or more that they or their spouse/partner are offered, and whether it was accepted. Where the value of any gift or hospitality is under £25 a Councillor **may** wish to declare receiving it.

5. What about gifts or hospitality that a Councillor is offered but did not accept?

A Councillor **must** register any offer of gifts and/or hospitality over £25 even if declined, since this protects both their position and that of the Council.

6. What is the value of the gift / hospitality?

A Councillor may have to estimate how much a gift or some hospitality is worth in their written declaration. It is suggested that they take a common sense approach, and consider how much they reasonably think it would cost a member of the public to buy the gift, or provide the hospitality in question. If as a result they estimate that the value is £25 or more, then the Councillor **must** declare it.

Where hospitality is concerned, a Councillor can disregard catering on-costs and other overheads, eg staff and room hire. If the refreshments, of whatever kind, would cost £25 or more in a comparable establishment providing food of comparable quality, the Councillor **must** register it.

If a Councillor is not certain whether the value is under £25, the safest course of action is to register it and give an approximate value.

7. What about gifts of low value?

There is no requirement to declare gifts of a value of less than £25. However, in order to be transparent, if a Councillor or their spouse/ partner receive a series of related gifts which are all under £25, but together total above £25, then they **must** register them if they are from the same person. If the small gifts offered by or received from different persons are connected in some way, it is good practice to register them.

8. How does a Councillor register gifts and hospitality that they receive?

A Councillor **must** give the Member Services Officer(s) working on behalf of the Monitoring Officer written details about the gifts and hospitality they or their spouse/ partner are offered, preferably by email. The best advice is to get into the habit of registering things as soon as possible.

9. Which organisation does a Councillor make declarations to?

A Councillor **must** also consider that they might be offered gifts and hospitality in their capacity as the Council’s representative on an outside body. It is a Councillor’s

responsibility to ensure that they declare any gifts and hospitality in accordance with that organisation's rules and procedures.

10. How to deal with the issue of when gifts or hospitality are offered or received in different capacities or where there are overlapping roles

Councillors need only declare gifts and hospitality to the Monitoring Officer where they are offered or received in their Capacity as a West Berkshire District Councillor.

If a councillor receives gifts or hospitality in another capacity, eg arising from holding another public office, they should register in accordance with whatever code is in place for that other body. If a particular body does not actually require the councillor to register anything, then they do not need to do anything in respect of the receipt of a gift or hospitality directly attributed to their role within that organisation.

If the councillor is not sure what capacity they or their spouse/partner was offered or received something in, provided they declare the gift or hospitality *at least once* with the body that appears to be the most appropriate, they will have fulfilled their duties. The overriding purpose is public transparency.

11. What happens if a Councillor does not register a gift or hospitality?

Failure to notify the Monitoring Officer, or the Members Service Officer(s) acting on their behalf, of the offer or receipt of a gift or hospitality with a value of £25 or more is a breach of this Protocol and consequently also a breach of the Code of Conduct. An alleged breach of the Code can be the subject of a complaint to the Monitoring Officer or Governance and Ethics Committee which could result in the matter becoming the subject of an investigation.

12. Gifts which are more likely to be considered acceptable

It is the responsibility of the Councillor to decide whether or not to declare gifts and hospitality.

The Council has however agreed that in appropriate circumstances Members of the Council may choose to accept gifts and hospitality in the following circumstances:

- Civic hospitality provided by another authority;
- Modest refreshments offered or received in the ordinary course of duties as a Councillor eg at formal meetings, training or working meetings or when in contact with constituents;
- Tickets for sporting or cultural events which are sponsored or supported by the Council;
- Small gifts of low intrinsic value branded with the name of the company or organisation making the gift (eg pens, diaries, calendars etc);
- Modest souvenir gifts from another public body given on the occasion of a visit by or to that body;
- Hospitality offered or received in the course of an external visit or meeting which has been authorised by the Council. In such cases the arrangements should be made by Officers rather than the Councillors who will be benefiting and hospitality should be commensurate with the nature of the visit; and

- Other unsolicited gifts where it is impracticable to return them or where refusal would in the circumstances cause offence. In such cases the Councillor may wish to pass the gift to the Chairman's Charity.

Offers/receipt of gifts and hospitality of these types are still subject to the requirements of this Protocol regarding the notification to the Monitoring Officer of gifts and hospitality of greater than £25 in value. The appropriateness of acceptance must always be considered beforehand. It must also be noted that the fact that a gift or hospitality does not have to be notified under this Protocol does not necessarily mean that it is appropriate to accept it.

13. Will the register be open to the public?

The register is available to the public in the same way as the register of Disclosable Pecuniary Interests is. It is open for inspection at the Council Offices, Market Street.

Regular updates of declarations will be reported to the Governance and Ethics Committee as part of the quarterly performance monitoring reports.

14. Further assistance

It is each Councillor's own individual responsibility to observe this Protocol, but the Monitoring Officer will help where possible. If a Councillor has any questions at all please contact the Monitoring Officer, Deputy Monitoring Officer(s) or the Democratic and Electoral Services Manager for advice and assistance.

Appendix 1 West Berkshire Council - Councillor's Code of Conduct

Definitions

This appendix provides definitions to some of the words and phrases used in the Code of Conduct and its Appendices.

'Bullying or intimidating behaviour' means offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group.

(Such behaviour can have a damaging effect on a victim's confidence, capability and health.

Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs, [but within the scope of the Code of Conduct].

It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying. It is also unlikely that a councillor will be found guilty of bullying when both parties have contributed to a breakdown in relations.)

'Capacity' – a Councillor or Co-Opted Member is acting in their Capacity as such when they are:

- 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.

'Council' means West Berkshire Council.

'councillor' means an elected member of the Council.

'Councillor' means a councillor where they are acting in their Capacity.

'Co-Opted Member' means a person who is not a councillor but who:

- is a member of any committee or sub-committee of the Council; or
- is a member of, and represents the Council on, any joint committee or joint sub-committee of the Council.

'Disclosable Pecuniary Interest' has the meaning given to it in the Act (see Appendix 3).

'Dispensation' has the meaning given to it in Appendix 5.

'Independent Person' means a person appointed by the Council in accordance with the Act who is consulted before the Council makes any decision on an allegation of a breach of this Code.

'Meeting' means any meeting of:

- the Council;

- the executive of the Council;
- any of the Council's or its executive's committees, sub-committees, joint committees, joint sub-committees, task groups, or area committees;

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of councillors.

'Monitoring Officer' means the Monitoring Officer of the Council (*who has the specific duty to ensure that the Council, its Officers, and its councillors, maintain the highest standards of conduct in all they do*).

'Other Registrable Interest' has the meaning given to it in Appendix 3.

'Personal Interest' has the meaning given to it in Appendix 3.

'Relevant Person' has the meaning given to it in Appendix 3.

'Sensitive Interest' has the meaning given to it in Appendix 3.

Appendix 2

West Berkshire Council - Councillor's Code of Conduct

The Ten Principles of Public Life ('the Nolan Principles')

Selflessness

Councillors should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

Councillors should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

Objectivity

Councillors should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

Councillors should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

Councillors should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal judgement

Councillors may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for others

Councillors should promote equality by not discriminating against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to uphold the law

Councillors should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

Councillors should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

Leadership

Councillors should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Appendix 3 West Berkshire Council - Councillor's Code of Conduct

Interests

Introduction

Councillors and Co-Opted Members **must** declare any interests that relate to their public duties and **must** take steps to resolve any conflicts arising in a way which promotes openness and transparency, including registering and declaring interests in a manner conforming to the procedures.

There are three types of interest:

- Disclosable Pecuniary Interests
- Other Registrable Interests
- Personal Interests

Councillors should also always consider whether any interest could be seen as being prejudicial to their decision making as a councillor. It is public perception that matters.

1 Disclosable Pecuniary Interests (DPIs)

1.1 [Schedule 2 of the Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#) lists the disclosable pecuniary interests specified for the purpose of the Act. This list is in [Appendix 3a](#).

1.2 The requirements to register interests apply to either an interest of the councillor or an interest of the councillor's spouse, civil partner or partner. However, the councillor does not have to differentiate between their own or their spouse/civil partner/partners' interests or to name them.

2 How to declare a DPI

2.1 Councillors **must** notify the Monitoring Officer of any DPI, within 28 days of taking up office or becoming aware of their interest. As with the Code, the requirement to disclose DPIs applies to Co-Opted Members as well as to councillors.

2.2 Any interests **must** also be disclosed at a Meeting if they are relevant to the matters under discussion.

2.3 The Act makes participation in such matters a criminal offence if the Councillor has a DPI.

2.4 Where, as an Executive Member, a Councillor may discharge a function alone, and they become aware of a DPI in a matter being dealt with, or to be dealt with by them, the Councillor **must** notify the Monitoring Officer of the interest and **must not** take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

3 Other Registrable Interests

3.1 Councillors are required by law to register Other Registrable Interests.

3.2 An Other Registrable Interest is one which a member of the public who knows all the relevant facts relating to it would reasonably consider that interest is so significant that it is likely to prejudice or influence the councillor's judgement of the public interest.

3.3 These relate to:

- (a) any body of which a councillor is a member or in a position of general control or management and to which they are appointed or nominated by their authority;
- (b) any body exercising functions of a public nature; directed to charitable purposes; or one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which they are a member or in a position of general control or management;
- (c) any easement, servitude, interest or right in or over land which does not carry with it a right for the councillor (alone or jointly with another) to occupy the land or to receive income.

4 How to declare an Other Registrable Interest

4.1 Councillors **must** notify the Monitoring Officer of any Other Registrable Interests, within 28 days of taking up office or becoming aware of their interest. As with the Code, the requirement to disclose Other Registrable Interests applies to Co-Opted Members in addition to councillors.

4.2 A Councillor may participate in decision making relating to their Other Registrable Interests to make representations, answer questions or give evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. The Councillor **must** leave the Meeting immediately after making representations, answering questions or giving evidence.

4.3 Subject to the Councillor disclosing the interest at the Meeting, they may attend a Meeting and vote on a matter where they have an Other Registrable Interest that relates to the functions of their authority in respect of:

- (a) housing, where they are a tenant of their authority provided that those functions do not relate particularly to their tenancy or lease;
- (b) school meals or school transport and travelling expenses, where they 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;
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where they are in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to councillors;
- (e) any ceremonial honour given to councillors; and

- (f) setting council tax or a precept under the Local Government Finance Act 1992.

5 When an Other Registrable Interest becomes a Personal Interest

- 5.1 The Council has many dual-hatted councillors who are also town or parish councillors. Membership of a body exercising functions of a public nature, such as town and parish councils, is an Other Registrable Interest and usually restricts a Councillor's participation in decision making. A Councillor would however be permitted to participate in decision making at Planning Committee meetings because their membership of a town or parish council is unlikely to prejudice or influence the Councillor's judgement of the planning application before the Committee. In this instance the Councillor should follow the rules on how to declare a Personal Interest.
- 5.2 Conversely, there might be times when a councillor's membership of a town or parish council is likely to prejudice or influence the Councillor's judgement of the planning application before the Committee. The Councillor should seek advice from the Monitoring Officer if they are unsure.

6 Personal Interests

- 6.1 A Councillor has a Personal Interest in any decision of their authority where the interest might reasonably be regarded as affecting their well-being or financial position or that of a [Relevant Person](#) to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward
- 6.2 A Relevant Person is:
 - (a) a parent, grandparent, sibling, child, aunt, uncle, cousin (or partner/spouse of any of those people) by birth or by marriage; or
 - (b) any person or body who employs or has appointed a Relevant Person, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom a Relevant Person has a beneficial interest in a class of securities exceeding the nominal value of £25,000.00; or
 - (d) any body of a type described in Other Registrable Interests.

7 How to declare a Personal Interest

- 7.1 Where a Councillor has a Personal Interest in any business of the Council a Councillor needs to disclose to the meeting the existence and nature of that interest when they address the meeting on that business.
- 7.2 Personal interests do not need to be declared to the Monitoring Officer, but Councillors should seek advice if they are not sure what type of interest they have.

8 When a Personal Interest becomes an Other Registrable Interest

- 8.1 As outlined in [the Code](#), a situation may arise where a member of the public who knows all the relevant facts relating to it would reasonably consider that

an interest is so significant that it is likely to prejudice or influence the Councillor's judgement of the public interest. In that circumstance their interest would be considered to be an Other Registrable Interest.

- 8.2 A Councillor would have an Other Registrable Interest in a planning application that their parent had submitted because that Relevant Person is likely to be affected by the application to a greater extent than the majority of the inhabitants of the ward or parish. A DPI would not cover this aspect as they relate to Councillor and their spouse/partner only. The existence of a close family tie would mean that the public might consider that it would prejudice the Councillor's view when considering the application.
- 8.3 In this instance the Councillor should follow the rules on how to declare an Other Registrable Interest.

9 Interests arising in relation to overview and scrutiny committees

In any business before an overview and scrutiny committee of the council (or of a sub-committee of such a committee) where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by the executive or another of their authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, they were a member of the Executive, committee, sub-committee, joint committee or joint sub-committee they were present when that decision was made or action was taken,

a Councillor may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and they **must** leave the room where the meeting is held immediately after making representations, answering questions or giving evidence. The Councillor should not stay in the meeting for the purposes of taking part in the committee's general debate.

10 Register of Interests

The Council will maintain a register of councillors' interests, and make it available to the public on their website.

11 Sensitive Interests

- 11.1 Where a councillor is concerned that the disclosure of the details of an interest (whether a DPI or Other Interest which the councillor is required to disclose) at a Meeting or on the Register of Members' Interests, and such disclosure would lead to the councillor or a person associated with them being subject to violence or intimidation, the councillor may request the Monitoring Officer agree that such interest is a Sensitive Interest.
- 11.2 If the Monitoring Officer agrees that the interest is a Sensitive Interest the councillor **must** still disclose the existence of the interest at a relevant Meeting but the councillor is not required to provide the details of the Sensitive Interest during the meeting. The Monitoring Officer shall also exclude the details of the Sensitive Interest from the published version of the Register of Members' Interests.

Appendix 3a
West Berkshire Council - Councillor's Code of Conduct

Prescribed Definitions for Disclosable Pecuniary Interests

The following table replicates [Schedule 2 of the Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#) and gives the prescribed definitions for Disclosable Pecuniary Interests.

<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	<p>Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by a Councillor in carrying out duties as a member, or towards the election expenses of a councillor.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the Councillor's partner/ spouse (or a body in which the Councillor's partner/ spouse has a beneficial interest) and the Council—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the Councillor's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the Councillor's partner/ spouse has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the Councillor's knowledge) has a place of business or land in the area of the Council; and</p>

Subject

Prescribed description

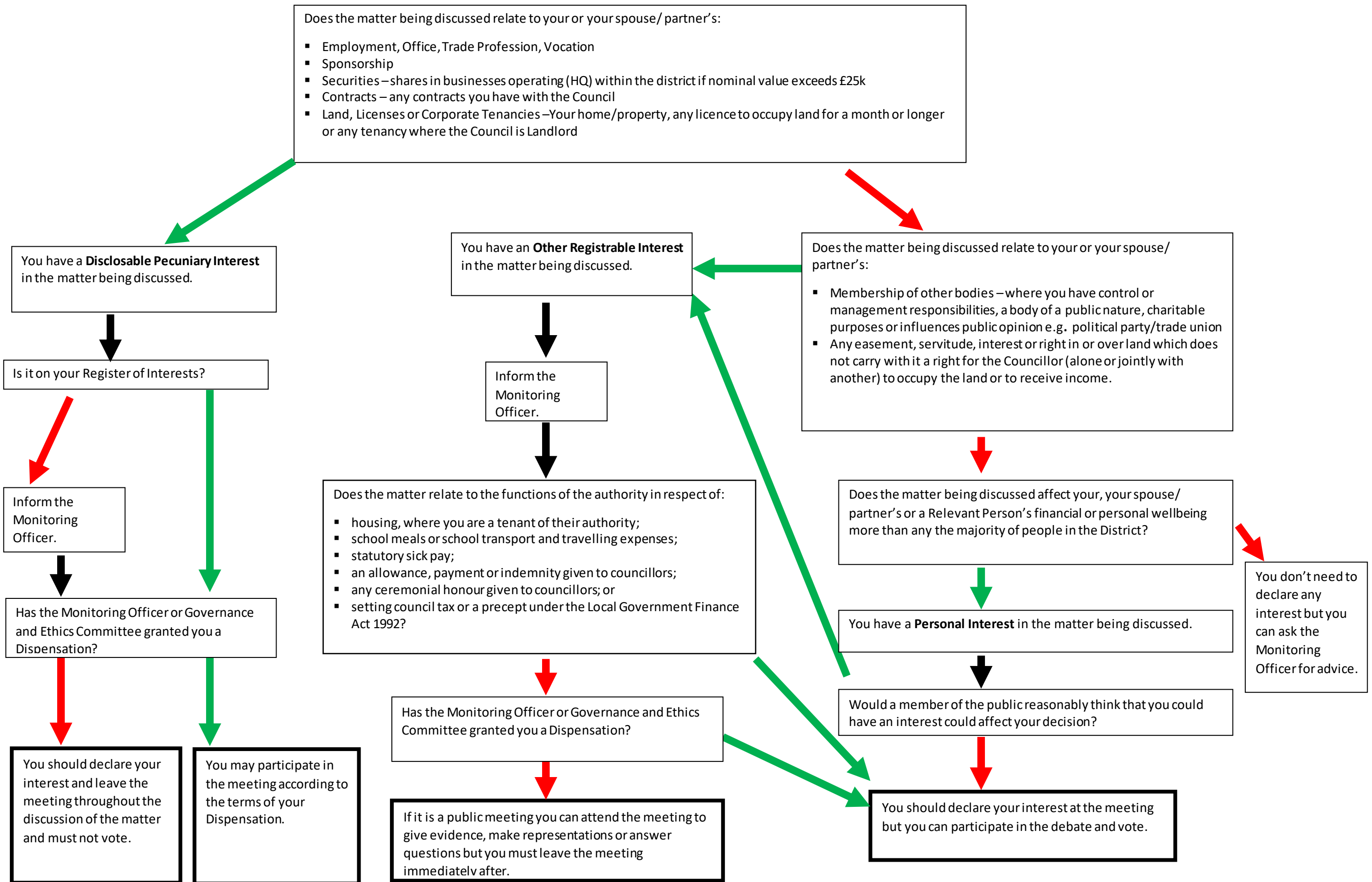
(b) either—

(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 Councillor's partner/spouse has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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Interests Flowchart



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Appendix 4
West Berkshire Council - Councillor's Code of Conduct
Dispensations under the Localism Act 2011

Introduction

Regulations came in to force on 1 July 2012 following the introduction of the Localism Act 2011. Section 33 of these regulations prescribes the circumstances in which the Governance and Ethics Committee and the Monitoring Officer may grant Dispensations to Councillors to speak and/or vote at a meeting in which they have a Disclosable Pecuniary Interest under Section 31 of the Act.

If a Councillor acts in accordance with the granting of such a Dispensation, any participation in business prohibited by the mandatory provisions of the Code of Conduct is not a failure to comply with the authority's Code. These regulations refer to the circumstances where a Councillor, finds they are in a position where they have to declare a Disclosable Pecuniary Interest or Other Registrable Interest under the Code of Conduct which would ordinarily then require them to leave the meeting. These councillors might be able to obtain a Dispensation from the Governance and Ethics Committee or Monitoring Officer to stay in the meeting after declaring the interest and either speak or speak and vote according to any Dispensation granted.

Dispensations

1 Circumstances in which a Dispensation can be Granted

1.1 The Governance and Ethics Committee or Monitoring Officer may grant a Dispensation to a Councillor in the following circumstances:

- (a) That so many Councillors of the decision making body have Disclosable Pecuniary Interests in a matter that it would "impede" the transaction of the business of that body. [In practice this means the decision making body would be inquorate as a result].
- (b) That without the Dispensation the representation of different political groups on the body transacting the business would be such as to alter the outcome of the vote on that particular matter.
- (c) That the authority considers that the Dispensation is in the interests of persons living in the authority's area.
- (d) That without a Dispensation no Member of the Executive would be able to participate in a particular matter. They suggest that where the Executive would be inquorate as a result then the particular decision could be dealt with by an individual Member of the Executive. It may be necessary to make provision in the Scheme of Delegation to enable this to occur although it does appear to be an unlikely event.
- (e) That the Council considers that it is "otherwise appropriate" to grant a Dispensation. This is a particularly wide provision as to some extent is (c) above.

- 1.2 It is considered that grounds (a) and (d) are objective. Dispensations on these grounds are delegated to the Monitoring Officer with an appeal to the Governance and Ethics Committee.
- 1.3 Grounds (b), (c) and (d) are rather more complex and subjective. The discretion to grant Dispensations on these grounds remains with Governance and Ethics Committee after consultation with the Independent Person.

2 Requesting a Dispensation

Requests for Dispensations **must**:

- (a) be made in writing;
- (b) be made to the Monitoring Officer of the Council;
- (c) be made by an individual Councillor or Co-Opted Member of the authority;
- (d) provide sufficient information to base a decision on.

3 Procedure and Considerations

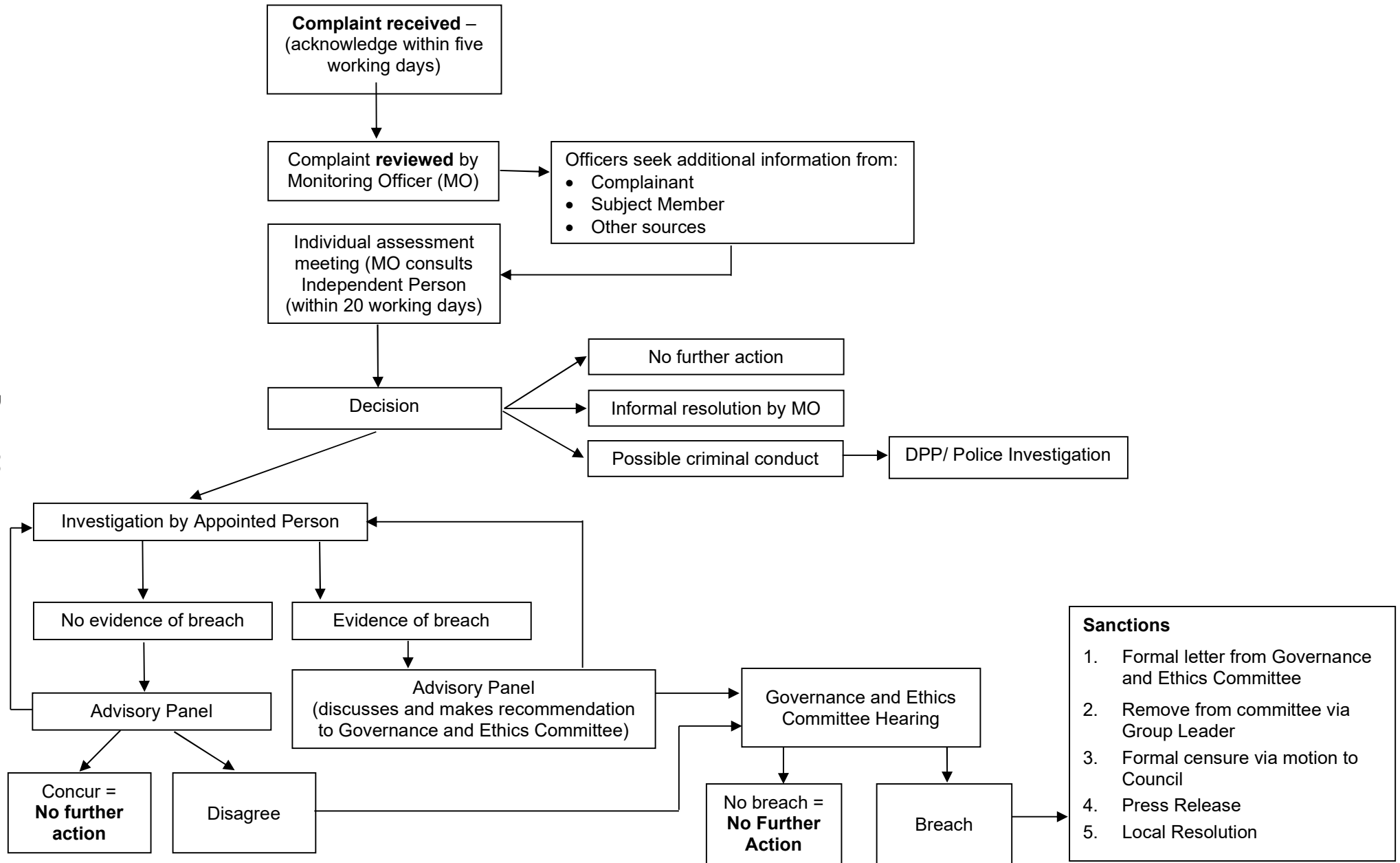
- 3.1 The Governance and Ethics Committee or Monitoring Officer will take the following into consideration when determining whether or not a Dispensation should be granted:
 - (a) They will weigh up the effect of Councillors' Disclosable Pecuniary or Other Registrable interest against the outcome of the vote if they are not participating in the vote.
 - (b) They will consider whether the nature of the interest in question is such that public confidence in the authority would be damaged if that Councillor were allowed to vote.
 - (c) They will look at whether the interest in question is one that is common to both the Councillor and to a significant proportion of the population.
 - (d) They will take account of the expertise and knowledge of the Councillor and whether this justifies their participation in the item in question.
 - (e) They will have regard to whether the business in question relates to a voluntary or public body and additionally whether the interest is a financial one.
 - (f) They will consider whether a Dispensation not being granted would mean the meeting was inquorate, this might be a reason to grant the Dispensation.
- 3.2 This consideration may also take account of any other relevant circumstances or local criteria.
- 3.3 The Monitoring Officer or Governance and Ethics Committee will determine the nature of any Dispensation they are minded to grant:
 - (a) Whether the applicant can speak and not vote; or
 - (b) Whether the applicant can participate fully and vote.

- 3.4 The Monitoring Officer or Governance and Ethics Committee can also decide the length of the Dispensation (not more than four years).
- 3.5 The regulations do not allow for the Monitoring Officer or Governance and Ethics Committee to grant a general Dispensation to cover any situation where a Disclosable Pecuniary Interest may arise.
- 3.6 If the Monitoring Officer or Governance and Ethics Committee grants a Dispensation it should do so in writing and before the Meeting(s) in question is/are held.
- 3.7 The Monitoring Officer or Governance and Ethics Committee may decide to refuse an application for a Dispensation. This is within their discretion under the regulations.
- 3.8 A written record of the decision taken must be kept and placed with the Register of Interests maintained under Section 81(1) of the Local Government Act 2000.

Appendix 5

See separate flow chart

Processing Complaints: Code of Conduct: Localism Act 2011



- Sanctions**
1. Formal letter from Governance and Ethics Committee
 2. Remove from committee via Group Leader
 3. Formal censure via motion to Council
 4. Press Release
 5. Local Resolution

Complaint

I wish to formally complain about the conduct of Cllr Ross MacKinnon.

In the Newbury Weekly News of the 16 March 2023, it emerged that Cllr MacKinnon had made the following statements in a WhatsApp platform group chat in reference to me:

"I see we are choosing violence today. Love to see it"

He also referred to me, as a *"poisonous little toad"*.

Such was the tone of the exchange that others joined in, speculating that they themselves need to be "more violent". Cllr MacKinnon's wife, Amanda MacKinnon, then added "We don't all choose violence here but if you ever need back up we've got a few characters ready to do ... my husband for one."

The NWN report received widespread attention and universal condemnation of the language used

Cllr MacKinnon issued an apology to me on January 13, following offensive comments he about me on social media, after a complaint about his behaviour was partially upheld. To endure further abuse less than 3 months later from Cllr MacKinnon clearly indicates a deliberate and sustained pattern of behaviour and the ineffectiveness of previous sanctions.

This complaint is because I strongly believe Councillor MacKinnon has breached the Social Media Protocol for Councillors, The Councillors Code of Conduct and the Nolan Principles and through the subsequent media attention he has brought the council in to disrepute.

The Constitution

Appendix K Social Media Protocol for Councillors

For the avoidance of doubt, I am operating on the basis that Whatsapp is widely considered social media given its obvious characteristics (indeed multiple sources are available online that confirm this), and therefore comes under the provisions of the definition in Appendix K of the Council's Constitution, Social Media Protocol for Councillors, updated January 2018. Whatsapp is clearly a social media platform with networking and community-building capabilities, allowing you to customise and identify yourself to others and participate in discussion. As such, it again falls within the realms of "social media" which by the council's own admission has a broad meaning in Appendix K:

"It is difficult to give definitive advice on the application of the Code of Conduct to social media use and there is developing case law in this area. However, if you use a social media platform where you identify yourself or can otherwise be identified as a Councillor, either in your profile or otherwise, there is a strong likelihood that you will be regarded as acting in your Capacity as a Councillor."

Clearly, Cllr Mackinnon's comments meet the provisions of this protocol. He is obviously identifiable as a councillor, participating in a group of councillors and candidates, and moreover is a portfolio

holder. His comments were not made under anonymity. Indeed, his identity was clear enough for the police to contact a number of councillors following concern from members of the group.

It is unclear at this time whether Cllr MacKinnon was using his council-issued equipment to participate in the conversation; if this could be established definitively, I suggest it puts an even more serious complexion on the issue. However, even if this is not the case, the matter is still extremely serious and has caused a great deal of upset.

Appendix H – Councillor Code of Conduct

4.1 a) – councillors must treat councillors... with courtesy and respect

4.2 a) – councillors must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation

4.2 f) – councillors must conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

I would be fascinated to learn how Councillor Mackinnon’s behaviour could possibly have escaped the scope of these provisions. He has clearly treated me with an absence of respect on more than one occasion, he has engaged in behaviour which can clearly be regarded as bullying or intimidation (see below), and the subsequent release of this material to the public has clearly brought the council, and his office, into disrepute

Definitions (Appendix 2)

(My emphasis)

‘Bullying or intimidating behaviour’ means offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. (Such behaviour can have a damaging effect on a victim’s confidence, capability and health. Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, **in the company of their colleagues**, through the press or in blogs, [but within the scope of the Code of Conduct]. **It may happen once or be part of a pattern of behaviour**, although minor isolated incidents are unlikely to be considered bullying. It is also unlikely that a councillor will be found guilty of bullying when both parties have contributed to a breakdown in relations.)”

This clearly meets the definition laid down by the council of bullying or intimidating behaviour.

It appears that I am seen by Councillor MacKinnon as a legitimate target for what appears to be an ongoing campaign of harassment. It is disappointing that members of this group of Conservative councillors and candidates were prepared to join in with this abuse.

The Nolan Principles

Again, emphasis mine. I believe these are the principles which have been failed by Cllr Mackinnon’s behaviour.

- **Honesty and Integrity**

Councillors should not place themselves in situations where their honesty and integrity may be questioned, **should not behave improperly**, and should **on all occasions** avoid the appearance of such behaviour.

- **Respect for others**

Councillors should promote equality by not discriminating against **any person**, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability.

- **Leadership**

Councillors should promote and support these principles **by leadership, and by example**, and **should act in a way that secures or preserves public confidence**.

Further Points

Councillor MacKinnon is a senior, serving Conservative member of the executive. He is of a high profile having presented the council budget less than a month before, and holding live chats with members of the public as part of the consultation effort. He was in a group speaking with other councillors BUT ALSO inexperienced individuals who aspire to join the party's ranks as councillors. The published screenshots show no leadership and show no respect for me. The screenshots paint a vivid picture of an environment in which new candidates are introduced to behaviour by Cllr MacKinnon that directly encourages disrespect and violent rhetoric as part of the culture of the group. The Nolan Principles clearly state that councillors should not behave improperly and ON ALL OCCASIONS avoid the appearance of such behaviour.

It has been alleged that this is just "humour"

I find this astonishing, and am absolutely unable to see the joke. I am not alone.

Two serving MPs have been murdered in the course of their duties. The atmosphere in the country is already febrile and divided. That anyone would "joke" about "choosing violence" is deeply concerning and reprehensible.

In addition, I understand there has been a suggestion by the Conservative groups that this is either political "dirty tricks" by opposition parties. I reject that entirely as the messages are from a Conservative group and published by an independent newspaper.

It's also telling that these "high spirits" were of such a nature that they caused enough concern for a member of the group to seek police advice.

We do not have the full transcript of what else was in the WhatsApp chat, only a very partial cross-section of its contents, but it hardly instils confidence in the behaviour of councillors in the rest of the discourse, nor does it reflect well on the council.

Debate Not Hate

In October of last year, Cllr Doherty introduced a motion to council, which passed, that proposed to adhere to a convention of “debate not hate” in line with the LGA campaign of the same name.

All of the council – including Councillor Mackinnon - were therefore signatories to this campaign as I understand it.

Timing and expected response

I would appreciate it if this complaint could be addressed in a timely manner. The previous complaint about Councillor MacKinnon's behaviour to me took over 6 months to resolve which was unacceptable.

Evidence base

I have included the watts app conversation and screen shots of messages from councillors within the conservative group along with media reports and public reaction on social media including but not limited to Burghfield and Mortimer Facebook comments.

Quote Tweets



[Redacted] 13 Mar

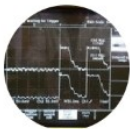
We have a national problem & it is playing out, locally.

This should not be ignored.



 **Jenny Jones**  [Redacted] · 13 Mar

Well, there are allegations that some @Conservatives on West Berks Council have been exchanging messages containing suggestions of violence towards a ...



Mark Kent [Redacted] · 13 Mar

[#BrexitIs](#) desperate Tories threatening opposition politicians.

 **Jenny Jones**  [Redacted] · 13 Mar

Well, there are allegations that some @Conservatives on West Berks Council have been exchanging messages containing suggestions of violence towards a ...



← Tweet



Lesley McEwen [redacted] · 11 Mar

[redacted]
Our DC publicly commended a very divisive planning application at our recent PC meeting despite knowing the huge numbers of objections to it. Shouldn't he remain objective? He represents the whole community, not just the wealthy businessman who cares nothing for the village.

🗨️ ↻ ❤️ 1 📊 154 🔗



Lee Dillon [redacted] · 11 Mar

[redacted]
Sorry to read the this Steve.

🗨️ ↻ ❤️ 2 📊 244 🔗



Hayden Wheeler [redacted] · 11 Mar

[redacted]
My parents had experience with West Berkshire Tories. Some became good friends. As a family, we were active in local politics, and there was a genuine desire by all to improve life for everyone. Sadly, those days are long gone.

🗨️ ↻ ❤️ 3 📊 213 🔗



Loz Argyle [redacted] Mar

Replying to [redacted]

← Tweet



You must be worrying them.

🗨️ ↻️ ❤️ 1 📊 120 🔗



Mike Harling ❤️❤️❤️ [redacted] · 11 Mar



Solidarity to both of you ❤️

🗨️ ↻️ ❤️ 2 📊 156 🔗



Vaughan Miller [redacted] · 12 Mar



Why am I not surprised! Stay strong.

🗨️ ↻️ ❤️ 1 📊 135 🔗



(((Andrew Sharp))) #Rej... · 12 Mar



So it's not only National Tories bullying any opposition to their disgraceful policies this needs looking into -Lineker was spot on ! @itvmeridian @NewburyToday [redacted] @BBCBerkshire @guardian [redacted] @BylineTimes [redacted]

🗨️ 1 ↻️ ❤️ 1 📊 107 🔗

👤 Followed by some Tweeters you follow



Clr David Lister 🏴󠁧󠁢󠁥󠁮󠁧󠁿 [redacted] · 11 Mar

← Tweet

🗨️ ↻ ❤️ 2 📊 156 🔗



Vaughan Miller [redacted] 12 Mar ⋮

[redacted]
Why am I not surprised! Stay strong.

🗨️ ↻ ❤️ 1 📊 135 🔗



(((Andrew Sharp))) #Rej... · 12 Mar ⋮

[redacted]
So it's not only National Tories bullying any opposition to their disgraceful policies this needs looking into -Lineker was spot on ! [@itvmeridian](#)
[@NewburyToday](#) [redacted]
[@BBCBerkshire](#) [@guardian](#)
[@BylineTimes](#) [redacted]

🗨️ 1 ↻ ❤️ 1 📊 107 🔗

👤 Followed by some Tweepers you follow



Cllr David Lister ♦️ [redacted] · 11 Mar ⋮

[redacted]
Sounds unpleasant. Hopefully those involved step back from local politics or at least fess up and publicly apologise.

🗨️ ↻ ❤️ 1 📊 196 🔗

👍👎😱 33 >



Most relevant ▾



Pete Logan

Apologies only just seeing this now, not seeing this before I submitted some questions to WBC in regards to those WhatsApp messages asking if disciplinary action was taken and if not suggested the leader accepts a vote of no confidence in her abilities to maintain order within the Council and or associated andbstep down as leader.

1 d Like Reply Message 2 👍
Hide



💎 Top fan

Garry Gazzadp Povey

Disgraceful behaviour and certainly what I believe to be "Conduct Unbecoming in Public Life & Office" BUT sadly it is NO more than I would expect from any tory. I hope that should this not be resolved in a timely fashion (a working week max) that [Steve](#) will publicly name those tory councillors concerned... I personally believe that what with the elections coming up it is in the "Public Interest" f... See more

1w Like Reply Hide 4 👍❤️

Comment as West Berkshire Green Party

👍👎😱 33 >



Garry Gazzadp Povey

Disgraceful behaviour and certainly what I believe to be "Conduct Unbecoming in Public Life & Office" BUT sadly it is NO more than I would expect from any tory. I hope that should this not be resolved in a timely fashion (a working week max) that [Steve](#) will publicly name those tory councillors concerned... I personally believe that what with the elections coming up it is in the "Public Interest" for them to be named anyway.

1w Like Reply Hide

4 👍❤️



Maria Dobson

[Garry Gazzadp Povey](#) totally agree.

1w Like Reply Hide



Maria Dobson

Sadly I have and am still dealing with the consequences from them harassing me. My two local councilors both Conservate are also on the receiving end of the nastiness. Problem is they are accountable to NO ONE, god help us all if they are re-elected. Well done for calling them out.

1w Like Reply Hide

1 👍

Comment as West Berkshire Green Party

👍👎😱 33 >



are accountable to NO ONE, god help us all if they are re-elected. Well done for calling them out.

1w Like Reply Hide 1 👍



Write a reply...



Conrad McBride

Hardly a surprise. If you're freely associating yourself with the post-2019 Conservative Party you're morally bankrupt.

1w Like Reply Hide 4 👍



Richard Doc Watson Conrad McBride a...



Liz Bell

That's awful [Carolyne Culver](#), what did they think they were doing? Just unacceptable.

1w Like Reply Hide 2 👍



Catherine Bunting

Thank you to those who came forward with this bullying behaviour and well done on calling this out [Carolyne Culver](#)

1w Like Reply Hide 3 👍

"Most relevant" is selected, so some comments may have been filtered out.

Comment as West Berkshire Green Party



Most relevant ▾



Lettie Hammond

Exactly! Vileness was the reason I gave up on involvement in local politics, decades ago. Its so sad and such an insult to the voters. Some are there just to serve there own egos and vested interests. The thing they hate the most is a genuine, honest person. So sad 😞 Stay strong and don't get sucked into, or drained by their nasty goo ❤️

4 d Like Reply

4



Kath Hodgson

Couldn't quite believe my eyes when I saw this In yesterday's Newbury Weekly News..



4 d Like Reply

Write a comment...



Elizabeth Alexandra Weller

The phrase after the poogate protest springs to mind, 'that's not how we do politics' bit stupid if you ask me, what they really admitting is that to them 🍌 in rivers is political, not very bright really. #enoughrope

4 d Like Reply



Simon Peek

Sorry to see you have had to put up with this Steve. Keep on doing the good work you do, advocating for the environment and people without a voice.

4 d Like Reply



John Gotelee

I wrote to councillor Marino (portfolio holder for internal governance asking him to state at the executive meeting next week what action he would take regarding this WhatsApp group and told him that some members should not be allowed to stand at the election

4 d Like Reply

3



Ian Hall John Gotelee -he would of cour...



John Gotelee Ian Hall I know lol

Write a comment...

RE: Statement about Conservative WhatsApp group - Message (HTML)

FILE MESSAGE

Ignore X Delete Reply Reply Forward All Meeting IM More - Resident contacts To Manager Team Email Done Reply & Delete Create New Move Actions Mark Categorize Follow Up Unread Tags Translate Related Select Zoom

Delete Respond Quick Steps Move Editing Zoom

Tue 14/03/2023 18:17
 Andrew Williamson
 RE: Statement about Conservative WhatsApp group
 To: Jeff Beck; Carolyne Culver; All Members
 Cc: Nigel Lynn
 You replied to this message on 14/03/2023 18:42.

Dear Carolyne,

I am not a member of the WhatsApp group although I have been asked about these message but I have not seen them.

That said if such messages exist as per your email please be assured that I personally condemn such comments and absolutely do not associate myself with them.

Kindest regards

Andy

Andy Williamson
 Council Member for Tilehurst and Purley
 West Berkshire Council, Market Street, Newbury, RG14 5LD
 [REDACTED]
Andrew.Williamson1@westberks.gov.uk | www.westberks.gov.uk

From: Jeff Beck
Sent: 11 March 2023 12:17
To: Carolyne Culver <Carolyne.Culver1@westberks.gov.uk>; All Members <MEMBERS@westberks.gov.uk>

07:12
23/03/2023

RE: Statement about Conservative WhatsApp group - Message (HTML)

FILE MESSAGE

Ignore X Delete Reply Reply Forward All Meeting IM More - Resident contacts To Manager Team Email Done Reply & Delete Create New Move Actions Mark Categorize Follow Up Unread Tags Translate Related Select Zoom

Delete Respond Quick Steps Move Editing Zoom

Thu 16/03/2023 19:21
 Gareth Hurley
 RE: Statement about Conservative WhatsApp group
 To: Steve Masters; Andrew Williamson; Jeff Beck; Carolyne Culver; All Members
 Cc: Nigel Lynn

Steve,

I too would like to put 'on the record' that I have not been privy to, or received, the messages that you shared.

I'm a father of two children; if they said such things about other people I would be ashamed.

Regards,
 Gareth

From: Steve Masters
Sent: 14 March 2023 18:43
To: Andrew Williamson <Andrew.Williamson1@westberks.gov.uk>; Jeff Beck <Jeff.Beck@westberks.gov.uk>; Carolyne Culver <Carolyne.Culver1@westberks.gov.uk>; All Members <MEMBERS@westberks.gov.uk>
Cc: Nigel Lynn <Nigel.Lynn1@westberks.gov.uk>
Subject: RE: Statement about Conservative WhatsApp group

Good evening Andy,

Thanks for your condemnation of the disgusting material.

For those councillors standing down who are not on the chat I have included the images.

07:13
23/03/2023

FILE MESSAGE NWN Article - Message (HTML)

Ignore Delete Reply Reply Forward Meeting IM - More - Resident contacts To Manager Done Team Email Reply & Delete Create New Move Actions - Mark Unread Categorize Follow Up - Translate Related - Select - Zoom

Thu 16/03/2023 17:35
Bijan Mohandes [REDACTED]
NWN Article

To: Ross Mackinnon

Cc: laura.farris.mp@parliament.uk; Lynne Doherty; Steve Masters

You replied to this message on 16/03/2023 18:21.

Dear Mr Mackinnon,

I am conservative supporter and have voted to support the Conservative party at the last parliamentary and council elections.

I live north of Shaw, and Lynne Docherty and Steve Masters are the councillors in my parish. I have had discussions with Steve, and I support some of his green party views I also oppose some of them.

I write to you about the remarks that I read in today's Newbury Weekly News, about the comments that you made about Steve Masters.

I am simply appalled about your lack of judgement in making such comments even if they were part of a private chat group, and I question if you are fit to represent the Conservative party.

It is irrelevant that this was a private WhatsApp chat group and should not have been made public. It is the behaviour of the individual that shows that he does not believe in the right to free speech that we enjoy in this country.

You are free to make comments that respectfully disagree with anyone's views, but your specific comments fall short of the standards I believe the conservative party expects from its members.

I believe that a full public apology is appropriate.. Please take the necessary time to reflect on how you will address this.

Regards,

07:14
23/03/2023

This page is intentionally left blank

~ Lynne Doherty



As you can imagine this me cross 🤔

09:39

Jake

Note that the image has "only" cropped out in your tweet. 09:40

I was confused when you shared it! 09:40

~ Lynne Doherty

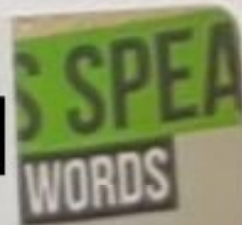
Ah!

09:40

Sorted! 09:42

Ross Mackinnon

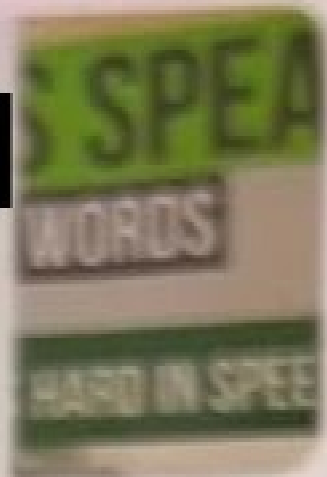
~ Lynne D...



Ross Mackinnon

~Lynne D... [REDACTED]

As you can imagine this me
cross 🤔



Did the poisonous little toad
actually deliver that to your
house?

09:47

~Amanda [REDACTED]

Ross Mackinnon

Did the poisonous little toad actually
deliver that to your house?

Do you by any chance have an
opinion on this "person", Ross?

~ Amanda [REDACTED]

Do you by any chance have an opinion on this "person", Ross?

On the fence babes

09:49



~ Lynne Doherty [REDACTED]

Ross Mackinnon

Did the poisonous little toad actually deliver that to your house?

Yes 🙄

09:59

~ Amanda [REDACTED]

Hopefully anyone with half a brain knows it's a load of lies and suggesting you do nothing damages his character to people who actually might have "considered" voting Green?

10:03

Jeanette Clifford

A Green parish councillor here

~ David

Do we have any stats on how many members bids have been put forward by both Lynne and SM over the past 4 ye...

That would be good for all wards, would love to know how many Macro has done.

11:10


Jake

Remember not to share their achievements, and their retort is usually that the bid panels are conservative so biased (even though there have been times when they have had more than the party proportional share of the funding)

11:11

I'm not sure comparing will be particularly useful, best to stick to sharing accomplishments of Con Cllrs

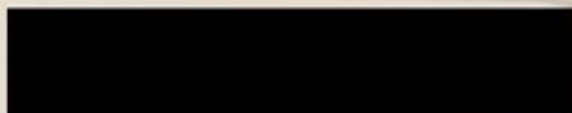
11:12



lot more bids than many of ours.

11:12

~David




Understood, but some hard fact evidence to call out the lie would be useful.

★11:17

Jake

Lynne and Ross' points about how much time he has spent in jail or up a tree probably best for that!

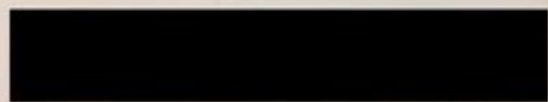
11:18



And also about Parish Council attendance etc

11:19

~Hazel PB



Enthusiasm of Parish Councillors plays a big part as well as their willingness do put their ideas on paper. A lot of Clerks in West

Ross Mackinnon

I see we're choosing violence today. Love to see it

11:49

~ Sarah

Ross Mackinnon

I see we're choosing violence today.
Love to see it

New to the group so I need to be more violent do i!!! 😂

12:09

Ross Mackinnon

Come for the leader, you best not miss 😊

12:20

~ Amanda

~ Sarah

New to the group so I need to be more violent do i!!! 🤪

Hi Sarah 🙌 fellow Newbie here, but Ross is my husband so I've had the pleasure to meet many of the wonderful people on this chat already.

We don't all choose violence here but if you ever need back up we've got a few characters ready to go... ~~my husband for~~
ere

12:23

This page is intentionally left blank

Sunday

~ Lynne Doherty [REDACTED]



As you can imagine this me cross 🤨

09:39

Jake

Note that the image has "only" cropped out in your tweet. 09:40

I was confused when you shared it! 09:40

~ Lynne Doherty [REDACTED]

Ah!

09:40

Sorted! 09:42

Ross Mackinnon

~ Lynne D... [REDACTED]

📷 As you can imagine this me

SPEA
WORDS

~ Sarah

~ Amanda

For when these WhatsApps get leaked 😊 we clearly mean violence on social media and not actual violence... these...



13:35

~ Sarah

~ Lynne Doherty

Welcome Sarah, lovely to have you on board. Looking forward to seeing you soon and if you are available will be lov...

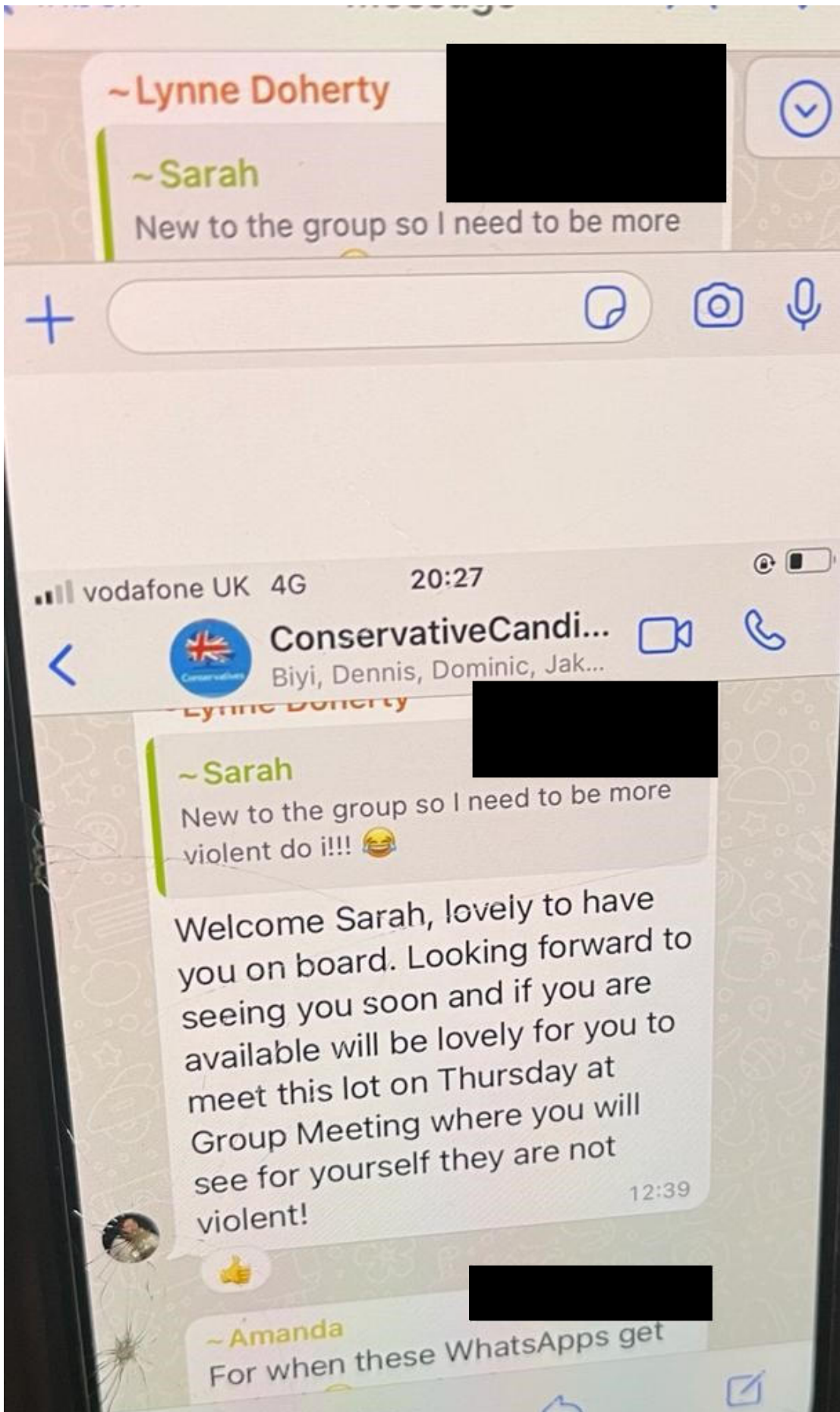
Yes I'll be on the zoom meeting on Thursday x

13:36

Dennis Benneyworth







~ Amanda

~ Sarah

New to the group so I need to be more violent do i!!! 🤔

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one

12:23



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12:09



Ross Mackinnon

Come for the leader, you best not miss 😊

12:20

Dominic Boeck

Some of them will have done a lot more bids than many of ours.

11:12

~David

Understood, but some hard fact evidence to call out the lie would be useful.

★11:17

Jake

Lynne and Ross' points about how much time he has spent in jail or up a tree probably best for that!

11:18

And also about Parish Council attendance etc

11:19

~Hazel PB

Enthusiasm of Parish Councillors plays a big part as well as their willingness do put their ideas on paper. A lot of Clerks in West Berks are getting fed up with lack of motivation from

~ Tom Parkhill

~ David

Do we have any stats on how many members bids have been put forward by both Lynne and SM over the past 4 ye...

That would be good for all wards, would love to know how many Macro has done.

11:10

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Remember not to share their achievements, and their retort is usually that the bid panels are conservative so biased (even though there have been times when they have had more than the party proportional share of the funding)

11:11

I'm not sure comparing will be particularly useful, best to stick to sharing accomplishments of Con Cllrs

11:12

~ Hazel PB [REDACTED]

We were lucky if the LD candidate here made one in 3 Parish Council mtgs over her time on the council

11:04

~ David [REDACTED]

Do we have any stats on how many members bids have been put forward by both Lynne and SM over the past 4 years and what they were/value?

11:07

Jake

I have the four years worth of spreadsheets, yes

11:08

~ David [REDACTED]

Oh please send me - I'd love to get it out there to show the difference!

11:08

Jake

Will sort tomorrow

11:08



Jeanette Clifford

A Speen parish councillor here. How many times has my ward Cllr Lynne Doherty attended our council meetings? I'd have to be as good as ROSS at sums to answer, because the number is so ENORMOUS. How many times have I seen my ward Cllr Steve Masters? Not once. Never. On no single occasion. Really Lynne - outrageous.

11:01

~David

Jeanette Clifford

A Speen parish councillor here. How many times has my ward Cllr Lynne Doherty attended our council meeting...

Just tweeted similar sentiment

11:02

~Hazel PB

We were lucky if the LD candidate here made one in 3 Parish Council mtgs over her

Ross Mackinnon

~ Amanda [REDACTED]

Do you by any chance have an opinion on this "person", Ross?

On the fence babes

09:49



~ Lynne Doherty [REDACTED]

Ross Mackinnon

Did the poisonous little toad actually deliver that to your house?

Yes 🙄

09:59

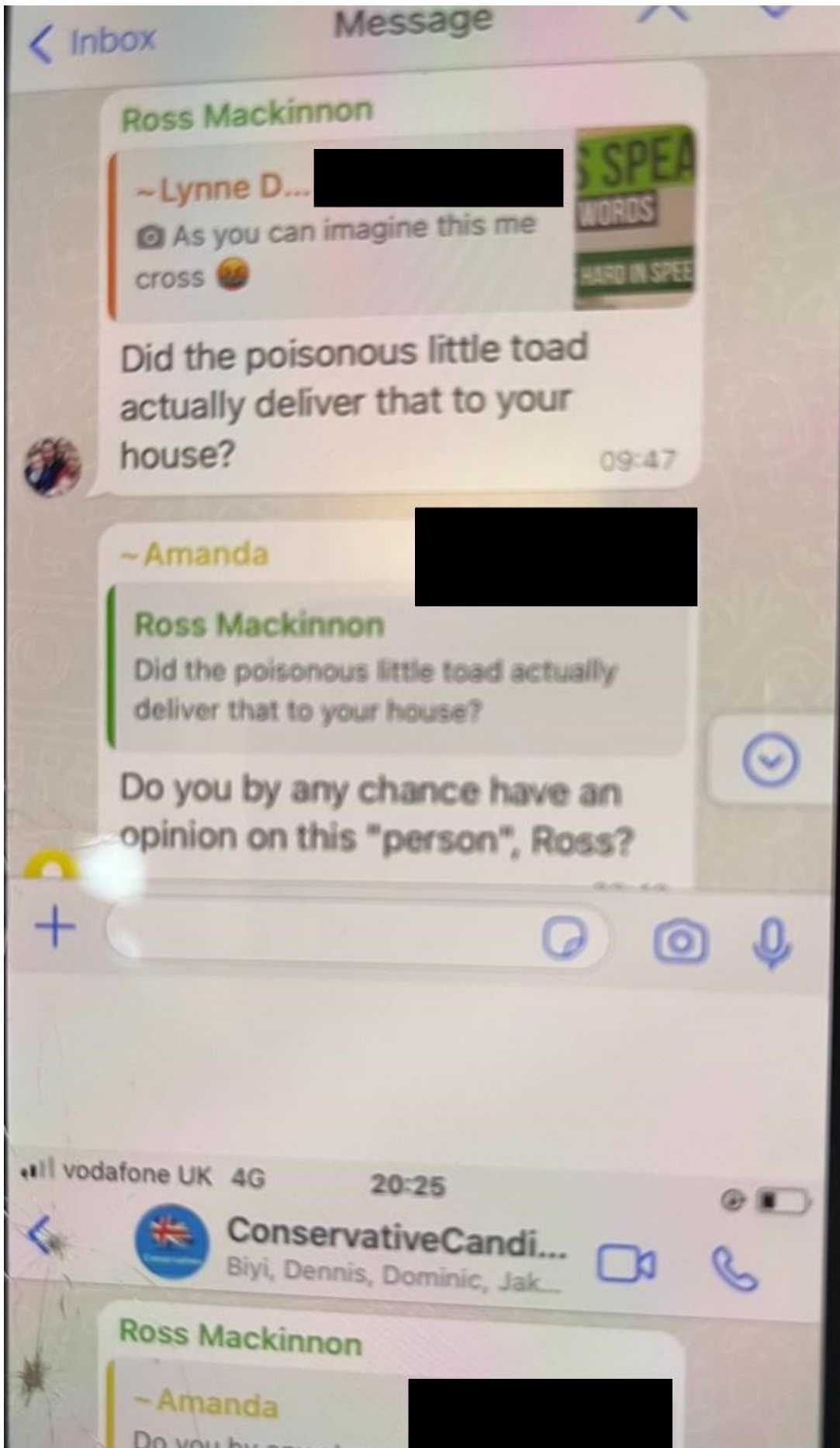
~ Amanda [REDACTED]

Hopefully anyone with half a brain knows it's a load of lies and suggesting you do nothing damages his character to people who actually might have "considered" voting Green?

10:03

Jeanette Clifford

A Green parish councillor here





Words turning ugly as WhatsApp row erupts

Green Party candidate called a 'poisonous little toad' in Tory group chat

CAMPAIGNING in the West Berkshire local council elections has turned ugly.

A string of internal WhatsApp messages sent to the Conservative group call a Green Party councillor and candidate standing against the Tory leader "a poisonous little toad".

The string of messages then jokes about violence.

The current executive member for finance, councillor Ross MacKinnon (Con, Bradfield) sent the message referring to Steve Masters (Green, Speen).

It is in reply to a post from the council leader Lynne Doherty (Con, Speen), who says she is "cross" at Green Party claims that Mr Masters works harder than she does in the ward, in a campaign leaflet.

"Did the poisonous little toad actually deliver that to your house?" Mr MacKinnon asks in the same conversation which debates how best to retort to claims from opposition parties.

Further messages then allude to violence, with another message from Mr MacKinnon saying: "I see we're choosing violence today. Love to see it."

Followed by another from

By NIKI HINMAN
Local Democracy Reporter
niki.hinman@newburynews.co.uk
@newburytoday

"Sarah", who says: "New to the group so I need to be more violent do I?" It is followed by a laughing emoji.

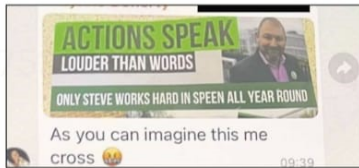
This message is then followed by: "Hi Sarah, - fellow newbie here, but Ross is my husband so I've had the pleasure to meet many of the wonderful people on this chat already. We don't all choose violence here but if you ever need back up we've got a few characters ready to do ... my husband for one."

When approached for comment Mrs Doherty told the *Newbury Weekly News*: "Let me be absolutely clear, we do not, and never will, condone violence."

"The Conservatives I lead are conducting a fair and honest campaign. Our hope is that the other parties will act in the same way, and not resort to baseless political smears."

"I shan't say more as I never comment on group business; like every other member of the group, I am bound by group rules on confidentiality."

The Green Party leader in West Berkshire, Carolyne Cullver (Green, Ridgeway), said: "I feel compelled to call this



One of the WhatsApp messages

out publicly, in the interests of safeguarding and because I have no confidence in the leader of the council and no confidence in the ability of this council to deal with bullying and harassment.

"Last year the leader of the council proposed a motion about civility in public life. I urge her to act in the spirit of this motion."

She said that in recent months the chairman of West Berkshire Green Party had a complaint partially upheld regarding the behaviour of a Conservative councillor.

"This councillor was subsequently required to offer an apology to the same member of my group who has been targeted in the WhatsApp chat," she said.

"I urge Conservative coun-

cillors and candidates in the WhatsApp group who participated in this discussion, or did not call people out when they made references to violence, to reflect upon this.

"I comment and thank those individuals who had the courage to come forward and speak out."

The Conservatives have also sent a cease and desist letter to the Greens to stop them using a photo of Mrs Doherty on their campaigning leaflets in the Speen ward. They ask for the leaflet to be removed from distribution, saying the Green Party does not have the right to use the image, which is from West Berkshire Council's website, for political purposes.

The Greens said they are ignoring the letter.

ists

8 3AN

V

ES,
:S!



Roadworks close retail park road

AN exit road from the Sainsbury's retail park in Calcot is to close for five nights at the end of the month.

The left turn slip lane out of the retail park at Pincent's Kiln - which also houses McDonald's, Boots, B&M, Sports Direct and PureGym - will be shut from 10pm until 5am each night from March 27 until March 31.

The closure is to allow Thames Water to carry out maintenance and investigative works.

The alternative route for all vehicles is to turn right on to Bath Road and go up to, and around, the M4 Junction 12 roundabout.

Schools closed by strike action today

A NUMBER of West Berkshire and North Hampshire schools will be closed again today (Thursday) due to nationwide teacher strikes.

Teachers from the National Education Union (NEU) were also striking yesterday (Wednesday) over pay and funding.

A number of schools are partially open - mainly for secondary pupils in exam years.

Today also sees the start of four 24-hour strikes on the railways.

The RMT union has announced the industrial action will take place today and on Saturday, as well as on Thursday, March 30, and Saturday, April 1.

Great Western Railway said many parts of its network "will have no service at all" during the strike days.

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WhatsApp message row and a cease and desist letter as campaigning in the West Berkshire local council elections turns ugly

By [Niki Hinman](#) Local Democracy Reporter

Published: 14:00, 13 March 2023 | Updated: 14:23, 13 March 2023



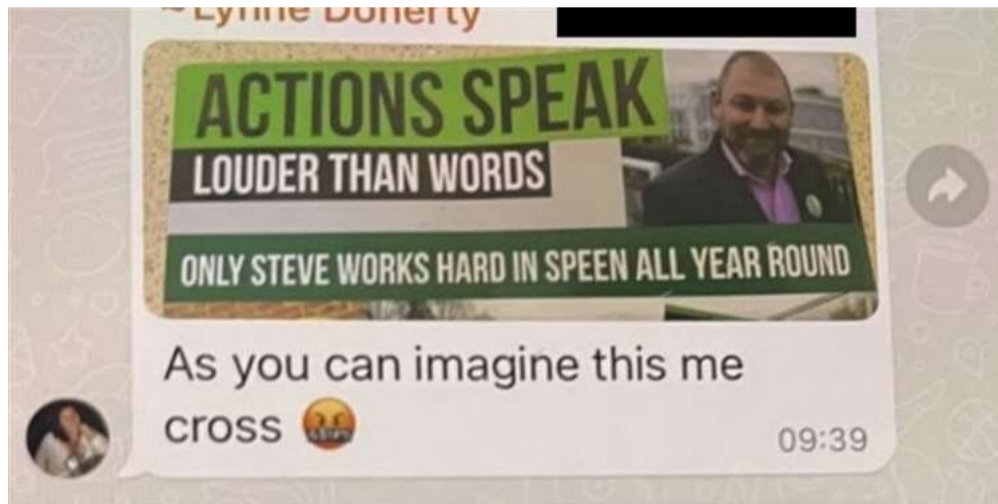
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Campaigning in the West Berkshire local council elections has turned ugly.

A string of internal WhatsApp messages sent to the Conservative group call a Green Party councillor and candidate standing against the Tory leader "a poisonous little toad".

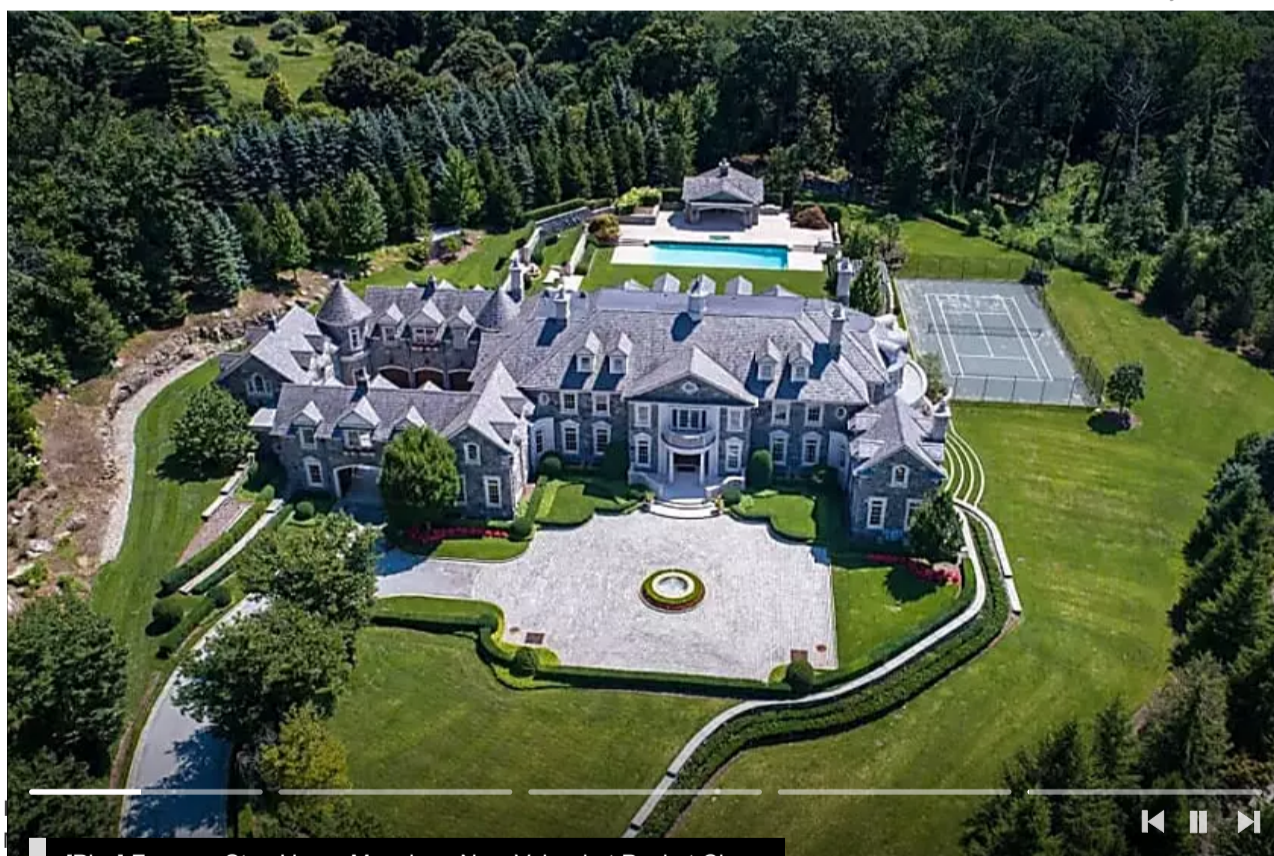
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WhatsApp messages (62941612)

The current executive member for finance, councillor Ross MacKinnon (Con, Bradfield) sent the message referring to Steve Masters (Green, Speen).

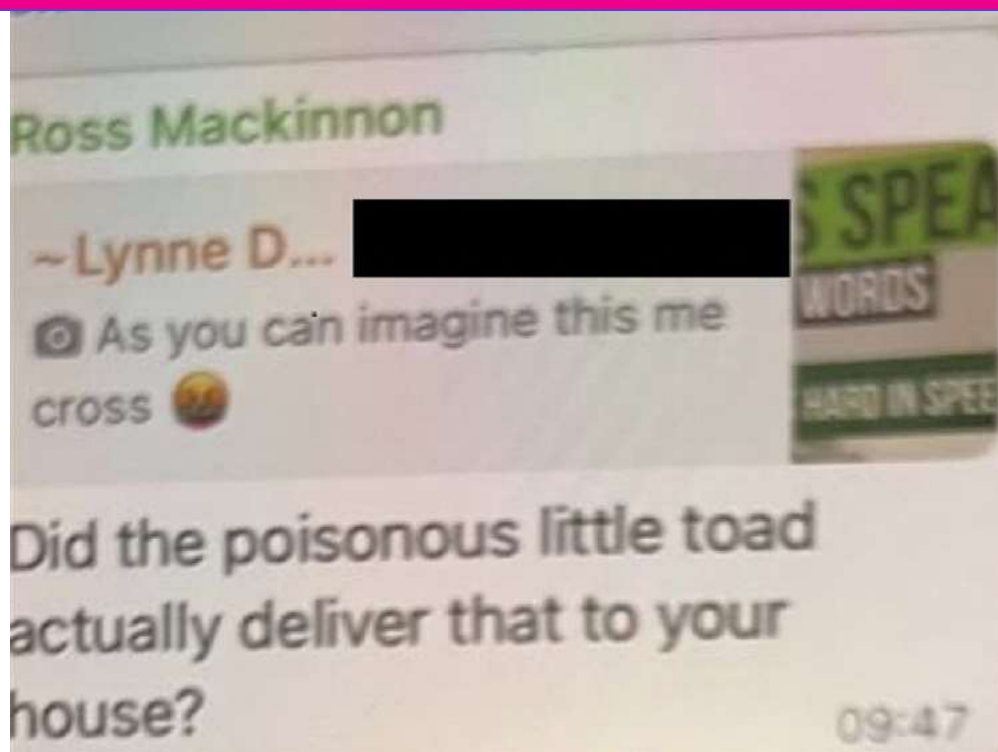
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[Pics] Famous Stars' Luxe Mansions Now Valued at Pocket Chang

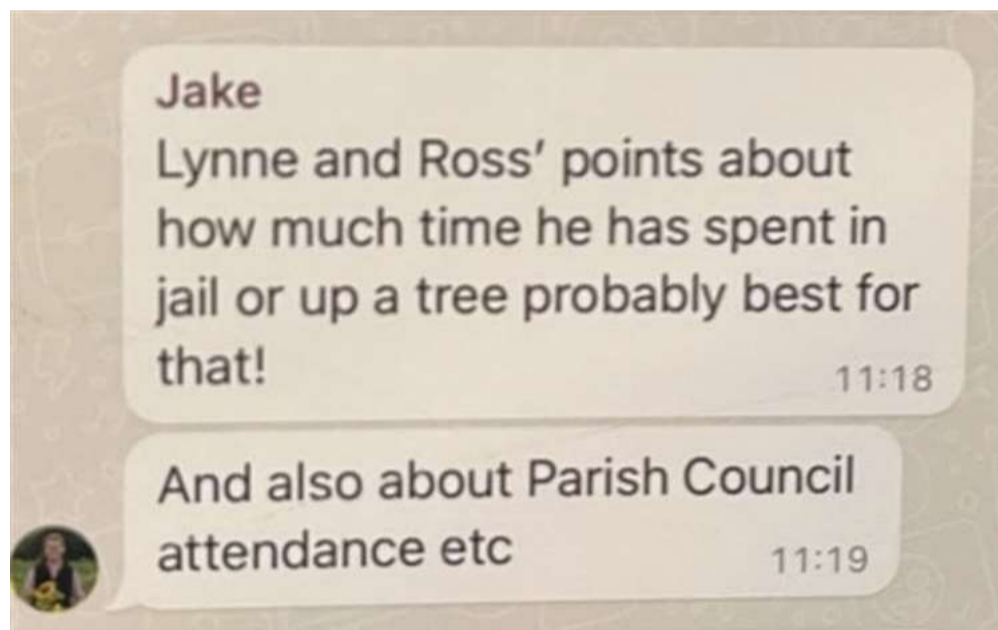
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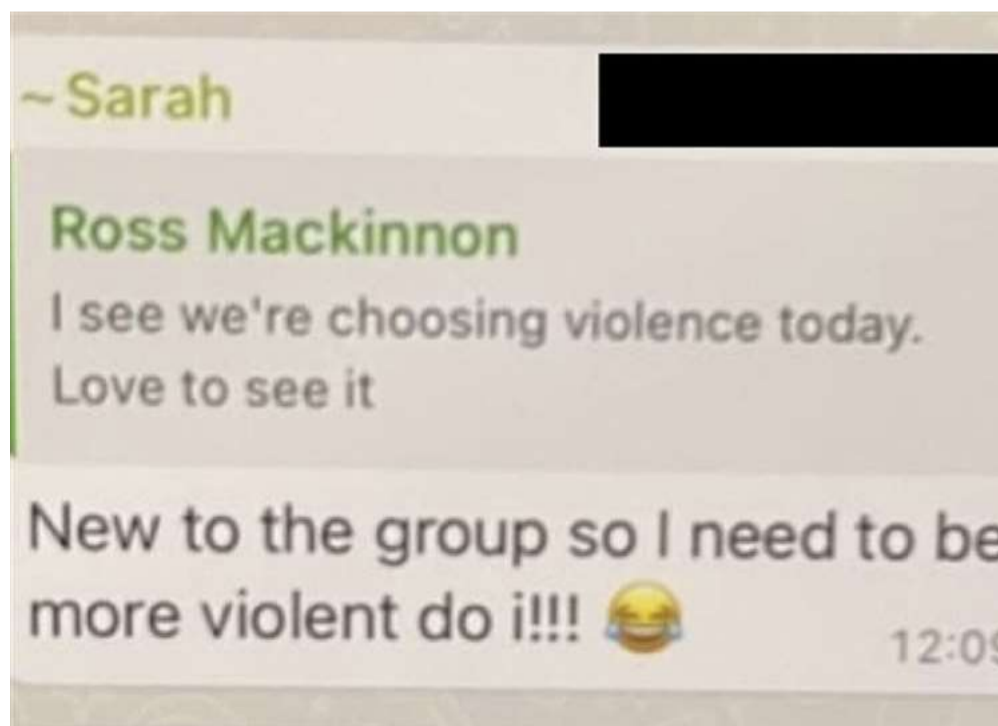
WhatsApp messages (62941681)

"Did the poisonous little toad actually deliver that to your house?" Mr Mackinnon asks in the same conversation which debates how best to use or retort to campaigning claims from opposition parties.



WhatsApp messages (62941691)

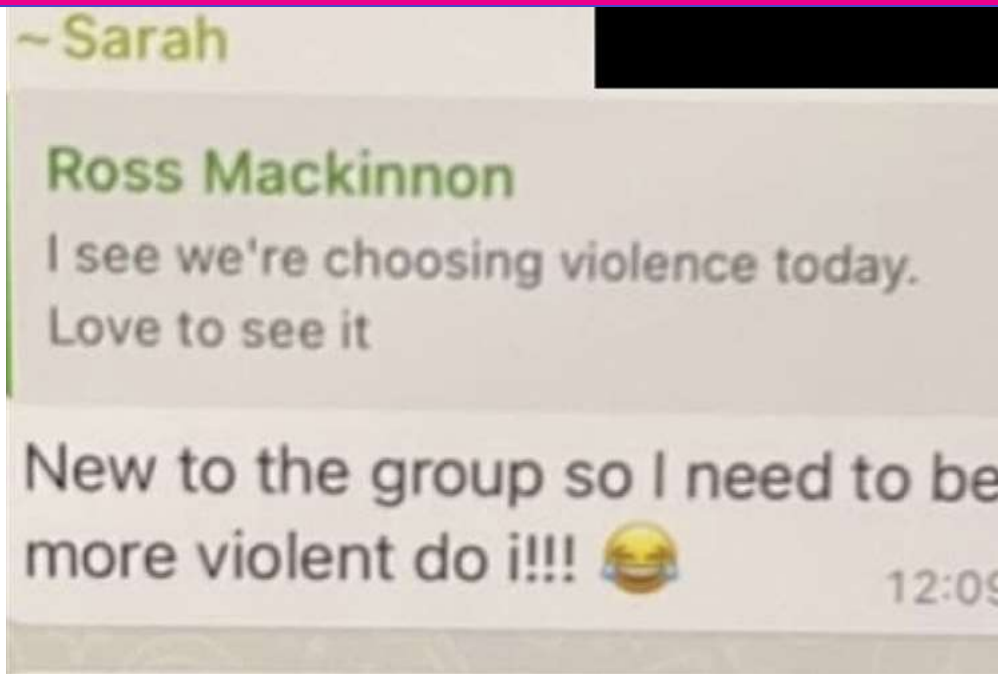
Further messages then allude to violence, with another message from Mr MacKinnon saying: "I see we're choosing violence today. Love to see it."



WhatsApp messages (62941720)

Followed by another from 'Sarah', who says: "New to the group so I need to be more violent do I?" It is followed by a laughing emoji.

This message is then followed by: "Hi Sarah, – fellow newbie here, but Ross is my husband so I've had the pleasure to meet many of the wonderful people on this chat already. We don't all choose violence here but if you ever need back up we've got a few characters ready to do ... my husband for one."

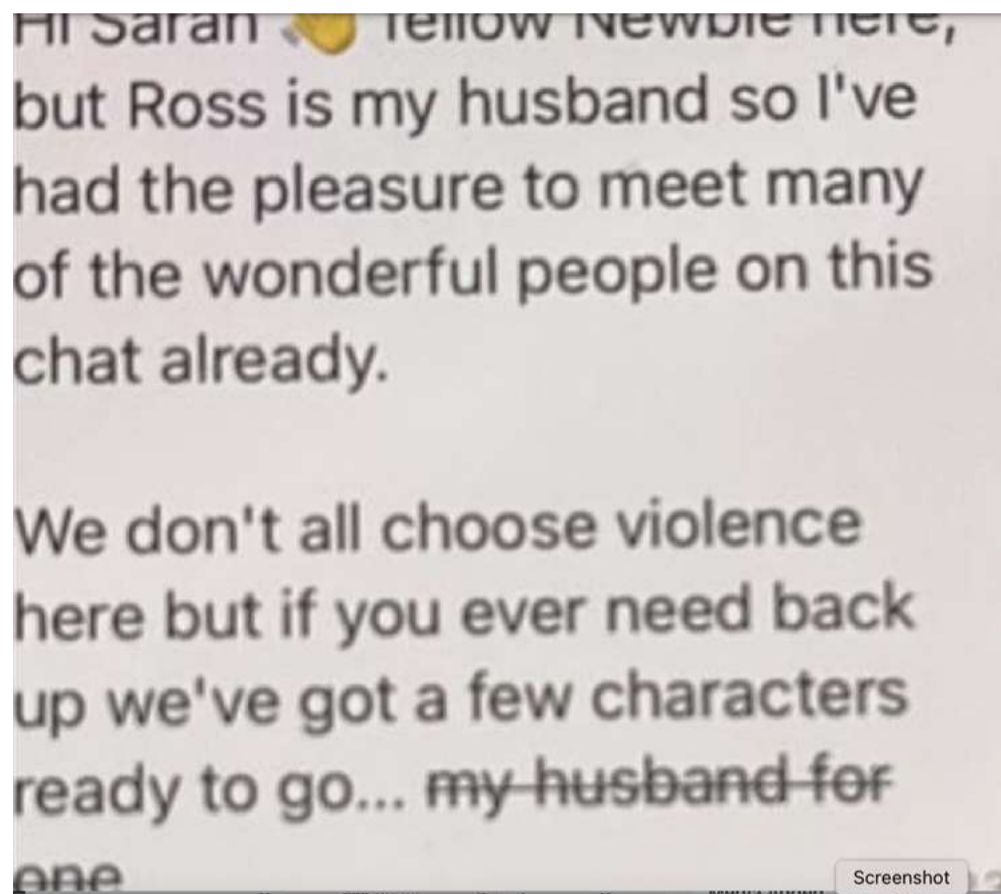


WhatsApp messages (62941720)

When approached for comment Mrs Doherty told the Newbury Weekly News: "Let me be absolutely clear: we do not, and never will, condone violence."

"The Conservatives I lead are conducting a fair and honest campaign. Our hope is that the other parties will act in the same way, and not resort to baseless political smears."

"I shan't say more as I never comment on group business: like every other member of the group, I am bound by group rules on confidentiality."



WhatsApp messages (62941743)

The Green Party leader in West Berkshire, Carolyne Culver (Green, Ridgeway), said: "I feel compelled to call this out publicly, in the interests of safeguarding and because I have no confidence in the leader of the council and no confidence in the ability of this council to deal with bullying and harassment."

"Last year the leader of the council proposed a motion about civility in public life. I urge her to act in the spirit of this motion."

She said that in recent months the chairman of West Berkshire Green Party had a complaint partially upheld regarding the behaviour of a Conservative councillor.

"This councillor was subsequently required to offer an apology to the same member of my group who has been targeted in the WhatsApp chat," she said.

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"I urge Conservative councillors and candidates in the WhatsApp group who participated in this discussion, or did not call people out when they made references to violence, to reflect upon this. I commend and thank those individuals who had the courage to come forward and speak out."

The Conservatives in West Berkshire have also sent a cease and desist letter to the Green Party to stop them using a photo of Mrs Doherty on their campaigning leaflets in the Speen ward.

They ask for the leaflet to be removed from distribution, saying the Green Party does not have the right to use the image, which is from West Berkshire Council's website, for political purposes.

The Greens say they are ignoring the letter.

[Elections](#) [Newbury](#) [Niki Hinman Local Democracy Reporter](#)

Comments (7)

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RuralLife wrote: 14/03/2023 13:30

I do hope that the Conservative party suspend their door knocking campaigns as I really would be alarmed if somebody that 'chooses violence' knocks on my door. I'm rather ashamed that West Berkshire is represented by a Conservative party that behaves like a local mafia group. They deserve to be swept away from any position of responsibility at the next local election.

↩ Reply [Report Abuse](#) 👍 👎 +25

Anthony Paynter wrote: 14/03/2023 12:23

If the local Green Party needs to find alternative imagery of Mrs Doherty for future flyers, I'd be more than happy to prepare a caricature...

↩ Reply [Report Abuse](#) 👍 👎 +16

Anthony Paynter wrote: 13/03/2023 23:53

Don't forget to vote in the local elections (take relevant photo ID) and send a message to these unpleasant Tory councillors.

↩ Reply [Report Abuse](#) 👍 👎 +41

NewburyPeople wrote: 13/03/2023 22:52

"We don't all choose violence" states Ross Mackinnon's wife casually implying that some do. It's either a sick joke or now a police matter.

↩ Reply [Report Abuse](#) 👍 👎 +32

Ian Hall wrote: 13/03/2023 20:22

I tried to get questions into the Executive Cycle , but the story broke at 2.00 pm and questions closed at 10.00 a.m

This patten of behaviour also seems in line with the treatment handed out to Claire Rowles.

I suspect this is just the tip of iceberg where bad practice is concerned

↩ Reply [Report Abuse](#) 👍 👎 +37

NewburyPeople wrote: 13/03/2023 19:57

The only thing that should cease and desist is the West Berkshire Conservative Party. Nasty, nasty, party and leadership.

↩ Reply [Report Abuse](#) 👍 👎 +50

LivinginWestBerks wrote: 13/03/2023 16:07

This language is horrific and the response from the leader is totally inadequate. If she is unable to condemn the councillors that used this language she should really step down from the role, and request the other councillors that threaten violence and use demeaning language to step down too. It makes you wonder what else is routinely acceptable in casual language amongst this appalling group of individuals.

↩ Reply [Report Abuse](#) 👍 👎 +77

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Jack Karimi

From: Jack Karimi
Sent: 31 March 2023 12:31
To: Jack Karimi
Subject: NWN Article

From: Bijan Mohandes [REDACTED]
Sent: 16 March 2023 17:35
To: Ross Mackinnon <ross.mackinnon1@westberks.gov.uk>
Cc: laura.farris.mp@parliament.uk; Lynne Doherty <Lynne.Doherty@westberks.gov.uk>; Steve Masters <Steve.Masters1@westberks.gov.uk>
Subject: NWN Article

This is an EXTERNAL EMAIL. STOP. THINK before you CLICK links or OPEN attachments.

Dear Mr Mackinnon,

I am conservative supporter and have voted to support the Conservative party at the last parliamentary and council elections.

I live north of Shaw, and Lynne Docherty and Steve Masters are the councillors in my parish. I have had discussions with Steve, and I support some of his green party views I also oppose some of them.

I write to you about the remarks that I read in today's Newbury Weekly News, about the comments that you made about Steve Masters.

I am simply appalled about your lack of judgement in making such comments even if they were part of a private chat group, and I question if you are fit to represent the Conservative party.

It is irrelevant that this was a private WhatsApp chat group and should not have been made public. It is the behaviour of the individual that shows that he does not believe in the right to free speech that we enjoy in this country.

You are free to make comments that respectfully disagree with anyone's views, but your specific comments fall short of the standards I believe the conservative party expects from its members.

I believe that a full public apology is appropriate.. Please take the necessary time to reflect on how you will address this.

Regards,

Bijan Mohandes
[REDACTED]

This email and any attachments to it may be confidential and are intended solely for the use of the individual to whom it is addressed. Any views or opinions expressed may not necessarily represent those of West Berkshire Council. If you are not the intended recipient of this email, you must neither take any action based upon its contents, nor copy or show it to anyone. Please contact the sender if you believe you have received this e-mail in error. All communication sent to or from West Berkshire Council may be subject to recording and or monitoring in accordance with UK legislation, are subject to the requirements of the Freedom of Information Act 2000 and may therefore be disclosed to a third party on request.

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Jack Karimi

From: Jack Karimi
Sent: 31 March 2023 12:32
To: Jack Karimi
Subject: Recent Statements and Allegations

From: Steve Masters

Sent: 17 March 2023 18:18

To: Lynne Doherty <Lynne.Doherty@westberks.gov.uk>; Adrian Abbs <Adrian.Abbs1@westberks.gov.uk>; Alan Law <Alan.Law@westberks.gov.uk>; Alan Macro <Alan.Macro@westberks.gov.uk>; Andrew Williamson <Andrew.Williamson1@westberks.gov.uk>; Andy Moore <Andy.Moore1@westberks.gov.uk>; Billy Drummond <Billy.Drummond@westberks.gov.uk>; Biyi Oloko <Biyi.Oloko1@westberks.gov.uk>; Carolyn Culver <Carolyn.Culver1@westberks.gov.uk>; Claire Rowles <Claire.Rowles1@westberks.gov.uk>; Clive Hooker <Clive.Hooker@westberks.gov.uk>; David Marsh (Councillor) <David.Marsh1@westberks.gov.uk>; Dennis Benneyworth <Dennis.Benneyworth@westberks.gov.uk>; Dominic Boeck <Dominic.Boeck@westberks.gov.uk>; Erik Pattenden <Erik.Pattenden1@westberks.gov.uk>; Executivecycle <Executivecycle@westberks.gov.uk>; Gareth Hurley <Gareth.Hurley1@westberks.gov.uk>; Garth Simpson <Garth.Simpson@westberks.gov.uk>; Geoffrey Mayes <Geoffrey.Mayes1@westberks.gov.uk>; Graham Bridgman <Graham.Bridgman@westberks.gov.uk>; Graham Pask <Graham.Pask@westberks.gov.uk>; Hilary Cole <Hilary.Cole@westberks.gov.uk>; Howard Woollaston <Howard.Woollaston1@westberks.gov.uk>; Jake Thurman <Jake.Thurman1@westberks.gov.uk>; James Cole <James.Cole@westberks.gov.uk>; Jeff Beck <Jeff.Beck@westberks.gov.uk>; Jeff Brooks <Jeff.Brooks@westberks.gov.uk>; Jeffrey Cant <Jeffrey.Cant1@westberks.gov.uk>; Jeremy Cottam <Jeremy.Cottam1@westberks.gov.uk>; Joanne Stewart <Joanne.Stewart1@westberks.gov.uk>; Keith Woodhams <Keith.Woodhams1@westberks.gov.uk>; Lee Dillon <Lee.Dillon@westberks.gov.uk>; Lynne Doherty <Lynne.Doherty@westberks.gov.uk>; Martha Vickers <Martha.Vickers1@westberks.gov.uk>; Melanie Booth <Melanie.Booth1@westberks.gov.uk>; Nassar Hunt <Nassar.Hunt2@westberks.gov.uk>; Owen Jeffery <Owen.Jeffery1@westberks.gov.uk>; Phil Barnett <Phil.Barnett1@westberks.gov.uk>; Richard Somner <Richard.Somner@westberks.gov.uk>; Rick Jones <Rick.Jones@westberks.gov.uk>; Ross Mackinnon <Ross.Mackinnon1@westberks.gov.uk>; Royce Longton <Royce.Longton1@westberks.gov.uk>; Steve Ardagh-Walter <Steve.Ardagh-Walter@westberks.gov.uk>; Steve Masters <Steve.Masters1@westberks.gov.uk>; Thomas Marino <Thomas.Marino1@westberks.gov.uk>; Tony Linden <Tony.Linden@westberks.gov.uk>; Tony Vickers <Tony.Vickers1@westberks.gov.uk>

Cc: Nigel Lynn <Nigel.Lynn1@westberks.gov.uk>

Subject: RE: Recent Statements and Allegations

1. Until now you have only said you don't condone violence, you have not said you condemn violence. As for a smear campaign, you and your group have, through this offensive chat smeared yourselves and now as usual you seek to blame everyone for your short comings.
2. Your own group chat members felt so uneasy with the content of the chat that they went to the police without any contact from the green group. Free speech is fine, but unfortunately it is not without consequence. Rest assured formal processes will follow and are being prepared as we speak.
3. You have never been respectful to opposition members or your own members when they have given scrutiny to your actions etc.

Might I suggest that instead of blaming others you have the courage to stand up to the members of your group who have put you and your party in this position.

Leadership is not about nice videos and press releases, it is about taking responsibility when things go wrong and apologising and making things right, at this point you are not showing any leadership.

If you had reached out when this begun, or called it out in the chat and offered an apology to me or my group it would be yesterday's news, but unfortunately it seems your determination to victim blame will perpetuate this well in to the election campaign. It is my guess that this will harm your campaign more than mine.

Enjoy your weekend.

Steve Masters

Councillor for Newbury Speen

West Berkshire Council Market Street Newbury RG14 5LD

 steve.masters1@westberks.gov.uk

www.westberks.gov.uk

From: Lynne Doherty

Sent: 17 March 2023 16:28

To: All Members <MEMBERS@westberks.gov.uk>

Cc: Nigel Lynn <Nigel.Lynn1@westberks.gov.uk>

Subject: Recent Statements and Allegations

Dear All,

Over the last week there have been a number of statements made to you all using this Group email.

I would like to make the following points in response.

1, I would say in response to these allegations that we (the Conservative Group) will always condemn violence.

We will run a fair and honest campaign in the lead up to May and we hope that the other parties will do so rather than resorting to smear campaigns.

2, I do not believe there to be malicious intent in the What's App messages that have been shared and they have been done so in a nuanced way that does not show full context.

The Chief Constable spoke last night about the balance between freedom of speech in a private space and what is done publically.

We may all have varying views about the threshold of this, but if anyone feels there has been a breach then there are formal processes adopted by this Council that can be followed and I would fully engage with.

3, I have significant concerns about the truth and accuracy of what has been shared on social media and therefore today I have engaged with our formal processes.

I will continue to do what I have always done which is to be respectful to you all and dedicate my time and efforts to representing those who have elected me.

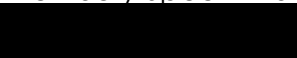
I will not respond any further to this matter.

Kind Regards

Lynne

Cllr Lynne Doherty

Leader, West Berkshire Council
Newbury Speen Ward - Conservative



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Jack Karimi

From: Steve Masters
Sent: 31 March 2023 05:53
To: Jack Karimi
Subject: FW: Evidence - Confidential
Attachments: Screenshot 2023-03-31 at 05.23.09.png; Re Travellers on Donnington recreation ground DW.pdf; Re Travellers on Donnington recreation ground.pdf; Feedback on Ross Mackinnon.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Complaint Process

Hi Jack,

Please find enclosed emails from residents of Newbury Speen who have expressed concerns to Lynne about the ongoing campaign against me by Cllr Mackinnon.

This evidence shows that Cllr Doherty has either lacked leadership and been unable to control her member, or has actively encouraged Cllr Mackinnon to attack me as a proxy.

I would draw attention to the email from former Conservative Cllr Paul Bryant, who is now a highly respected Alderman who calls out the tweet by Cllr Mackinnon.

I would also request that this evidence be used in my complaint against Cllr Mackinnon as it further illustrates his unnatural obsession with myself and his repeated attacks upon me.

Steve Masters

Councillor for Newbury Speen

West Berkshire Council Market Street Newbury RG14 5LD

██████████ steve.masters1@westberks.gov.uk

www.westberks.gov.uk

From: Steve Masters ██████████
Sent: 31 March 2023 05:29
To: Steve Masters <steve.masters1@westberks.gov.uk>
Subject: Evidence

This is an **EXTERNAL EMAIL**. **STOP. THINK** before you **CLICK** links or **OPEN** attachments.

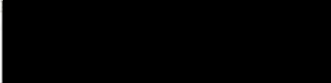
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Tweet



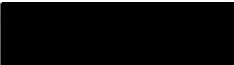
Cllr Ross Mackinnon



This is what Speen residents expect from their local Councillor - not supine encouragement for illegal encampments



Lynne Doherty



· Jul 22, 2022

This is completely unacceptable. I have this evening been in contact with @TVP_WestBerks to ask they enforce the new Police, Crime, Sentencing and Courts Act immediately so that the local community can access this important park



9:14 PM · Jul 22, 2022

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From: David Willetts [REDACTED]
Subject: Re: Travellers on Donnington recreation ground.
Date: 23 July 2022 a
To: Steve Masters [REDACTED]

DW

That's interesting Steve. I have always admired calmness under pressure and diplomacy is always preferable to agitation and anger. What is the source and nature of the criticism? Working together is so much better than sniping at one or the other.

I am well aware of the need for caution when expressing concern for the Travellers, especially the children. Feelings can run high locally, not least because of the tragedy of the death of P C Harper. However stigmatising a distinctive social group achieves nothing and simply exports a perceived problem from one parish to the next.

Speak soon. Take care.

ATB

David

Sent from my iPhone

On 23 Jul 2022, at 22:36, Steve Masters [REDACTED] wrote:

Hi David,

My email summary to the Parish council.

It has been a tough 24 hrs where I have had some criticism about my calm and diplomatic approach to this issue and it has frustrated me in no small measure.

I thank you for your advice and council on these and other matters, it means a lot to having you available when I need guidance.

Best wishes

Steve M

----- Forwarded m [REDACTED]

[REDACTED]:29

Subject: Re: Travellers on Donnington recreation ground.

To: Gillian Durrant [REDACTED]

[REDACTED], Bill Graham [REDACTED], Mar [REDACTED]

[REDACTED], Colin Yates [REDACTED]

Anthony Harris [REDACTED], Glyn Thomas [REDACTED], Margo Payne [REDACTED], Paul Bryant [REDACTED]

Good evening everyone,

I'm sure many of you may have been to the recreation ground today.

I went and once again had conversations with a number of the travellers.

Again they suggested they would be departing tomorrow.

I also spoke to one of the police patrols who are monitoring the site and they echoed that they had been told the plan was to leave tomorrow.

I walked around the site and can report that the pavilion and the mower garage appear unmolested.

Litter levels were less than I feared and a number black bags full of rubbish were seen at the bins and by the caravans. In fact levels of selfish littering were far higher at northcroft last week when people were swimming in the river.

Children continue to play in the playpark and castle, indeed two adults told kids to play sensibly while I was there.

I spoke to a couple of dog walkers who said they had had no aggressive interactions and that the family groups seem to be reasonable and friendly.

I dearly hope that we see them move on tomorrow so we can get back to normal and also to dispel the negative stereotyping that seems to be the prevailing narrative in some quarters.

I was thinking about future security measures and a high restricted barrier maybe something to look at.

Finally. I have been a little perturbed by the suggestion online by my political rivals that I am in some way complicit and

encouraging this illegal encampment.

While I may not use the inflammatory language of Cllrs MacKinnon and Doherty I am trying to ensure a speedy resolution without enflaming already strained tensions between residents and the traveller community in West Berkshire. This approach seems to be one the police wish to follow.

Anyway, I bid you good night and will be at the recreation ground again tomorrow.

Best wishes,

Steve Masters

On Fri, 22 Jul 2022, 13:54 Gillian Durrant, <clerk@shawcumdonnington.org.uk> wrote:

Thanks Steve

I have spoken to Jean Pimley - the Traveller Liaison officer at WBC. She said our best bet was for the police to move them on, but after what you have said it looks like they wont be, despite having more powers now to do this. Bill confirms they did break in, so I will try and speak to the police and find out if we can persuade them to act.

If the police wont act then we need to - but as you say, only if they are still there on Monday morning. I have the contact details of bailiffs who Jean recommends, and I will put them on notice now, but if we do need to use them on Monday there will of course be a cost.

An alternative is to engage lawyers and take it to court, but this could take several weeks.

Once they are gone we need to immediately tighten up security. As a temporary measure we can borrow some concrete blocks from WBC, but these are kept at Theale and we would need to transport them at our own expense, but the loan is free of charge. This of course may be a problem for the cricket club! Ideally we need to look at the existing gate and lock and get something more robust ASAP.

We will have a Zoom meeting to discuss this today at 5.30pm for those who can make it.

Gillian Durrant is inviting you to a scheduled Zoom meeting.

Topic: Shaw-cum-Donnington Parish Council emergency meeting

Time: Jul 22, 2022 05:30 PM London

Join Zoom Meeting

<https://us04web.zoom.us/j/77328471435?pwd=zvTG02daG-2OgO1OXkMWTWVPjKxhAv.1>

Meeting ID: 773 2847 1435

Passcode: SSQ9YG

Kind regards

Gillian Durrant

Parish Clerk

Shaw-cum-Donnington Parish Council

Mobile: [REDACTED]

Email: clerk@shawcumdonnington.org.uk

Please note: I work a limited number of hours for the Parish Council, so there may be a delay in responses.

On 22/07/2022 13:30 Steve Masters [REDACTED] wrote:

Good afternoon everyone,

An update on the recreation ground.

The police seem to be of the opinion that they are contained at present and not causing any material damage or risk so the have little grounds to move them on at this time, now that may change and there is an incident number INC 698 22/07/22 raised.

As the land is Parish land it is the PC who will have to instigate any proceedings to evict should it come to that.

I liaised with the police and the travellers who have said they intend to move on by Sunday evening. Clearly we have to take them at their word at current time.

I would however recommend a Zoom meeting of the PC to have an outline plan in place should they remain on the recreation ground after Sunday.

The gentleman Bill and I spoke to has made the assurance to me as well as to the police and Bill that they will treat the area with respect and move on.

I also made it explicitly clear that if they do remain longer than they have outlined legal action will be taken by the Parish Council.

I'm happy to set up the Zoom if we have a time you can meet.

In the meantime I will drop by the recreation ground periodically to ensure I am aware of the situation and can ensure they are respecting the site.

Best wishes

Steve Masters

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From: Paul Bryant [REDACTED]
Subject: Re: Travellers on Donnington recreation ground.

Date: 24 July 2022 a

To: Steve Masters [REDACTED] Gillian Durrant clerk@shawcu [REDACTED]
[REDACTED], Ma [REDACTED]
[REDACTED], Anthony Harris
[REDACTED], Glyn Thomas [REDACTED] Lynne Doherty Lynne.Doherty@westberks.gov.uk



Steve. I am most upset by Ross Mackinnon's comments, presumably about you, see web reference below. Lynn, I hope you will discipline Ross Mackinnon for his, as far as I am aware, unsupported criticism of Steve. You (and Lynn) have been of great help during this incident. Paul.

On 23/07/2022 22:29, Steve Masters wrote:

Good evening everyone,

I'm sure many of you may have been to the recreation ground today.

I went and once again had conversations with a number of the travellers.

Again they suggested they would be departing tomorrow.

I also spoke to one of the police patrols who are monitoring the site and they echoed that they had been told the plan was to leave tomorrow.

I walked around the site and can report that the pavilion and the mower garage appear unmolested.

Litter levels were less than I feared and a number black bags full of rubbish were seen at the bins and by the caravans. In fact levels of selfish littering were far higher at northcroft last week when people were swimming in the river.

Children continue to play in the playpark and castle, indeed two adults told kids to play sensibly while I was there.

I spoke to a couple of dog walkers who said they had had no aggressive interactions and that the family groups seem to be reasonable and friendly.

I dearly hope that we see them move on tomorrow so we can get back to normal and also to dispel the negative stereotyping that seems to be the prevailing narrative in some quarters.

I was thinking about future security measures and a hight restricted barrier maybe something to look at.

Finally, I have been a little perturbed by the suggestion online by my political rivals that I am in some way complicit and encouraging this illegal encampment.

While I may not use the inflammatory language of Cllrs MacKinnon and Doherty I am trying to ensure a speedy resolution without enflaming already strained tensions between residents and the traveller community in West Berkshire. This approach seems to be one the police wish to follow.

Anyway, I bid you good night and will be at the recreation ground again tomorrow.

Best wishes,


Steve Masters

--

Paul Bryant

--

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

From: Ben Wood [redacted] 
Subject: Feedback on Ross Mackinnon
Date: 12 October 2020 at 18:55
To: [redacted]
Cc: [redacted]



Lynne, Claire,

I hope you don't mind me reaching out, but I am growing increasingly disturbed by the vindictive and passive-aggressive tweets from Ross Mackinnon towards Steve Masters.

I will make no secret of the fact that Steve is a friend of mine, but I also want to make it clear that although that is the case, I am a long-term Conservative voter, from a Conservative-voting family and I regularly disagree with many of the positions that Steve takes on policy and other matters. That said, I do respect him for being a politician who is not afraid to stand up for what he believes in – something that seems like it is increasingly rare these days.

Over the last few months, as an active Twitter user, I have had to watch from the sidelines and see Mr Mackinnon take pot-shots at Steve which I believe are increasingly unbecoming of an elected official in his position and I am of the growing opinion are detrimental to the Conservative philosophy of promoting open and constructive debate.

I include just two of the recent tweets that I think are a good example of this below, however there are many others.

You may or may not agree with Steve's actions, but he remains engaged as a local councillor, is popular with many in his ward, and although he has been taking part in the HS2 protest, has maintained a near 100% record in terms of council meetings etc.

Furthermore, although Mr Mackinnon has repeatedly sniped at him, you will notice that Steve has not been drawn into a too and fro. This is something, as a friend, I have advised him to avoid, but equally, I know if I was on the receiving end of this on-going campaign I would find it extremely upsetting and demoralising.

I have copied in our local MP, Laura Farris and also John Redwood, who I believe that Mr Mackinnon works closely with. I am not sure whether they are aware of this nastier side to Mr Mackinnon's online persona, but it I do wonder whether his energies might be better served channelled into more constructive posts.

I hope you take this email in the spirit it is sent, but I believe the actions of one individual are now starting to have a detrimental impact on the perception of the wider Conservative family in West Berkshire and below.

Best regards,

Ben Wood
[redacted]
[redacted]



Cllr Ross Mackinnon



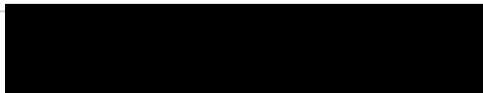
Steve's missed out some details:

- TVP strongly refute the allegation
- Steve narrates the video of his mates screaming "SCUM" at the police
- Activists are trained to lie about police assaults

That's a bit more complete.



Steve Masters



This occurred while William was supporting an action on the #Wendover bypass several weeks ago. He was delivering coffee and offered no resistance. How he managed to remain calm is a testament to his calm nature.
theguardian.com/uk-news/2020/o...



Cllr Ross Mackinnon



Puzzling from [redacted]. Tells [#itvnews](#) he's been in the woods every night for three months, but amazingly by day made it back to Newbs to report fallen trees and heroically detect a theft of lead from a castle before publicising it. Does he think his residents are stupid?



Masters, 50, a Green Party councillor for W
 hire Council and the oldest protester to be

Secured as best we could after speaking to [@TVP_WestBerks](#) were unable to attend. Big concerns that further damage will be caused or

ing up a tree, said he has slept in the wood
night for the past three months.

ctivist said he is passionate about the cause
se he wants his three grandchildren to “grow
rom the effects of climate change” which h
res “will not happen if projects like HS2 are
ahead”.

further access will result in potential
injures.



Appears an apple tree has collapsed
across the towpath by [#Newbury](#)
lock on the [#KennetandAvon](#). Will
also report formally. [@NewburyTC](#)
[@WestBerkshire](#) maybe of interest.

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Agenda Item 3c

Cllr Masters' complaint relates to private messages made by me, in a personal capacity, on a closed and encrypted WhatsApp chat group comprising prospective Conservative candidates at the forthcoming elections to West Berkshire Council in May 2023. Some of the prospective candidates in the chat group are sitting Councillors, others are not. Several sitting Conservative Councillors are not standing for re-election – they are not part of the chat group.

Capacity

Paragraph 3.1 of the Code of Conduct describes the application of the Code:

“This Code applies to Councillors and Co-Opted Members (eg whenever they are acting, claiming to act, or giving the impression they are acting in their Capacity as a Councillor or Co-Opted Member). Where a councillor is not acting with Capacity no breach of this Code is likely to occur.”

Appendix 1 of the Code defines “Capacity”:

“a Councillor or Co-Opted Member is acting in their Capacity as such when they are:

- 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.”

Appendix 1 also defines “Meeting”:

“any meeting of:

- the Council;
- the executive of the Council;
- any of the Council's or its executive's committees, sub-committees, joint committees, joint sub-committees, task groups, or area committees”

My participation in the chat group is not a Meeting as defined by the Code, or a briefing meeting with officers and members of the public. Nor was I corresponding with the Authority.

I was also not acting, claiming to act, or giving the impression that I was acting as a representative of the Council. My participation in the group derives from my status as a prospective candidate in the forthcoming election, as is the case with many other prospective candidates in the group who are not sitting Councillors. No Council business was discussed in the group. I used my personal smartphone to communicate in the group.

It follows that, per paragraph 3.1 of the Code, no breach is likely to have occurred as I was not acting in my capacity as a Councillor. That selected messages from the chat group were subsequently disclosed, in breach of confidence, to Cllr Masters by a chat group member, does not affect the capacity in which I was acting when communicating in the chat group.

It is therefore my position that Cllr Masters' complaint fails on this point.

Context

Nonetheless, I will point out some background as well as several factual inaccuracies and untruths in Cllr Masters' complaint.

Cllr Masters states that the messages emerged in the Newbury Weekly News of March 16. This is untrue. Cllr Masters had been given the messages and published them online on March 14, and his group leader had made a statement regarding them on March 9.

Cllr Masters states that my comment "I see we are choosing violence today" refers to him. This is untrue. "Choosing violence" is a metaphor referring to a strong social media response by members of the chat group to a dishonest Green Party leaflet. The phrase is widely understood by social media users in that context. A quick Google of the phrase shows this. There is absolutely no question that my comment referred to, encouraged, incited, or even joked about, physical violence against any person or group of persons.

Subsequent references to "violence" by the group members must be seen in that context. Indeed, a message posted by my wife, who is a prospective candidate, joking about the recent Matt Hancock WhatsApp leaks, makes it explicitly clear that social media activity is being referred to. Cllr Masters himself concedes in his complaint that "we do not have the full transcript of what else was in the WhatsApp chat".

This is precisely the problem. Individual messages have been disclosed out of context and reported in bad faith by the Green Party and the press, some implying and others explicitly stating that the Conservatives are joking about or even inciting violence against Cllr Masters, in order to deliberately damage our reputation. The responses and comments he refers to and reproduces in his complaint are predictable given the incomplete and misleading reporting of the chat group messages.

Cllr Masters states that a previous complaint against me was partially upheld. This is untrue. The complaint was referred for informal resolution by the Monitoring Officer. No part of that complaint was upheld. Cllr Masters and others have made public statements repeating this falsehood, alongside other misleading statements about the extent of Police involvement, which I understand are the subject of a separate complaint.

Cllr Masters argues that WhatsApp falls within the scope of social media, and states "multiple sources online confirm this". There are multiple sources online which conclude otherwise, as another quick Google shows. In this instance WhatsApp was being used as a closed, private and encrypted messaging service amongst friends. As such there was a reasonable expectation that any messages would remain private and not be disclosed more widely.

The additional information provided by Cllr Masters does not appear to have any relevance to the matter at hand.

Ross Mackinnon

31st March 2023

Initial Assessment Decision Notice

Complaint Reference: NDC06/23

Complainant: Councillor Steve Masters

Subject Member: Councillor Ross Mackinnon

On 13 April 2023, the Deputy Monitoring Officer, Nicola Thomas, and Independent Person of this Authority, Lindsey Appleton, considered a complaint from Councillor Steve Masters concerning the alleged conduct of Councillor Ross Mackinnon, a member of West Berkshire Council. Jack Karimi, Democratic Services Officer, was additionally present.

Brief Summary of the Complaint is set out below:

- That the Subject Member engaged in disrespectful, bullying and intimidating behaviour by referring to the Complainant as a “poisonous little toad” and referring to “choosing violence” in reference to the Complainant in a WhatsApp chat.

Potential breaches of the Code of Conduct identified

The following potential breaches of the Code of Conduct were discussed:

Nolan Principles:

- Personal Judgement
- Respect for Others
- Leadership

General Obligations:

- 4.1(a). Councillors and Co-opted members must treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.
- 4.2(a). Councillors and Co-opted members must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.
- 4.2(f). Councillors and Co-opted members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

Decision

In accordance with the Localism Act 2011, following the Initial Assessment the Monitoring Officer, in consultation with the Independent Person, is able to decide on one of the following four outcomes:

1. The complaint will be investigated fully by an independent investigator;
2. No further action will be taken on your complaint;
3. Some form of informal resolution will be sought;
4. The matter will be referred to the Director of Public Prosecution or the Police where it is suspected that some form of criminal conduct has occurred in relation to interests that have not been disclosed.

The Monitoring Officer in consultation with the Independent Person has concluded that in this case:

- Informal resolution will be sought.

In considering the Complaint, the Monitoring Officer in consultation with the Independent Person (hereafter “the Panel”) had regard to the West Berkshire Council Code of Conduct, LGA guidance, the Social Media Protocol, the information submitted by the Complainant, and the response by the Subject Member.

In his complaint, the Complainant stated that the Subject Member’s statements were part of a pattern of disrespectful complainant towards him, and could be regarded as bullying or intimidating behaviour.

In his response, the Subject Member stated that he was not acting in his capacity as a Councillor, as his participation within the WhatsApp group was solely as a Conservative candidate and member. The Subject Member additionally stated that the screenshots of the WhatsApp group had been taken out of context, and clarified that “choosing violence” was an online metaphor referring to being brutally honest or issuing a strong response.

The Panel determined that it was questionable whether the Subject Member was acting in his capacity as a Councillor or representative of the Authority. The WhatsApp group appeared to be a group that was not strictly limited to Councillors and the Subject Member confirmed that it was not on a West Berkshire Council provided mobile telephone. However, it was clear that the Subject Member could be identified and those participating in the group will have known his role as a Councillor for West Berkshire Council. The Panel concluded that, in accordance with guidance, as there was doubt over whether the Subject Member was acting in his capacity as a Councillor, the complaint would be considered.

The timing of the Complaint was noted.

The Panel concluded that the use of the phrase “poisonous little toad” was personal, disrespectful, and inappropriate language towards a fellow councillor, and may constitute a breach of the Code of Conduct and the Nolan Principle of Respect for Others.

On references to violence, the Panel accepted the Subject Member’s clarification that “choosing violence” was intended to be an online metaphor, and concluded that the provided screenshots did not provide sufficient context to determine if a breach of the Code of Conduct had occurred.

What happens now?

This Decision Notice is sent to the Complainant and the Subject Member about which the complaint was made.

Informal Resolution

The Subject Member will be asked to issue an apology to the Complainant, Councillor Steve Masters, for the use of the phrase “poisonous little toad”.

It should be noted that dealing with a matter by alternative resolution at the Initial Assessment stage is making no finding of fact as there has been no formal investigation. It is suggested that this is the most proportionate resolution to the complaint.

What if I am unhappy with the outcome?

The Localism Act does not provide any appeals mechanism to review this decision. However the decision may be reviewed by means of an application to the High Court for Judicial Review of the decision.

Additional Help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010.

We can also help if English is not your first language.

West Berkshire Council is committed to promoting and demonstrating fairness and equality of opportunity. We will ensure that no one is treated less fairly on the grounds of age, disability, gender, gender identity, marriage/civil partnership, pregnancy/maternity, race, religion/ belief, sexual orientation, or on any other grounds, as set out in legislation, which cannot be justified.

If you require this information in a different format, such as audio tape, or in another language, please ask an English speaker to contact Jack Karimi on Telephone 01635 503605, who will be able to help.

Signed *Nicola Thomas*

Date: 14 April 2023

Deputy Monitoring Officer Nicola Thomas

Signed *Lindsey Appleton*

Date: 14 April 2023

Independent Person Lindsey Appleton

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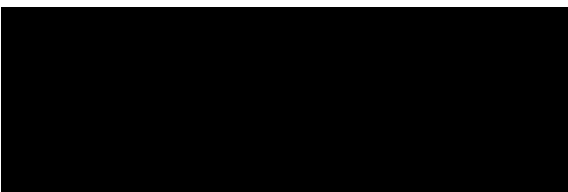
**Report of an Investigation into a Complaint
by former councillor Steve Masters against
Cllr Ross Mackinnon of West Berkshire
Council**

Private & Confidential

Final Version 1 June 2024

**Richard Lingard LLB
Solicitor**

ICO Registration No: Z27409852



Richard Lingard – Curriculum Vitae

Educated at Magdalen College School Oxford and Southampton University, I qualified as a Solicitor in 1980, trained in private practice and spent four years in the commercial sector before going into Local Government.

At the time of my retirement in September 2011, when I became a non-practising Solicitor, I was the Head of Legal & Democratic Services and Monitoring Officer at Guildford Borough Council, for whom I worked for some 30 years.

Since 2011, I have conducted and reported on over 60 investigations covering allegations of misconduct against City, County, Borough, Parish and Town Councillors and Officers. I have also carried out a number of procedural and governance reviews and provide training on ethical standards and the responsible use of social media by councillors. My work has been carried out for local authorities in Berkshire, Buckinghamshire, Hampshire, Hertfordshire, Kent and Surrey.

I have also recently completed an eight-year term as an Independent Member of the Surrey Police Misconduct Panel.

EXECUTIVE SUMMARY

This is the final version of my report of an investigation that I have carried out into a complaint brought by former councillor Mr Steve Masters against Cllr Ross Mackinnon of West Berkshire Council ('WBC' / 'The Council') in respect of his alleged breach of the Council's Code of Conduct.

I have concluded that Cllr Mackinnon has breached the WBC Code of Conduct.

1. INTRODUCTION

- 1.1 On 6 March 2024 I was instructed by an email from Nicola Thomas, Deputy Monitoring Officer of the Council, to conduct an independent investigation into a complaint by former councillor Steve Masters (SM).
- 1.2 Ms Thomas provided me with a copy of the complaint, the full text of which is reproduced at **Appendix 1** to this report, contact details for the people concerned and related documentation.
- 1.3 The following is a brief summary of the complaint:
 - That Councillor Mackinnon engaged in disrespectful, bullying and intimidating behaviour by referring to Mr Masters as a '*poisonous little toad*' and referring to '*choosing violence*' in reference to the Complainant in a WhatsApp chat.

2. PROCESS

- 2.1 Following receipt of my instructions, I reviewed the documentation and contacted Mr Masters and Cllr Mackinnon, inviting them to meet me via Zoom in order that I could hear what each of them had to say about the matter.
- 2.2 I had a Zoom meeting with Mr Masters on 3 April and, after some delay caused by his unavailability, with Cllr Mackinnon on 19 April.
- 2.3 I subsequently spoke at Mr. Masters' request to three further people – one serving councillor (Carolyne Culver) and two former councillors, both of whom asked to remain anonymous.
- 2.4 In accordance with my usual practice and with their consent, I made recordings of my discussions with all interviewees and used them as the basis of notes which I sent to each of them for comment.
- 2.5 Cllr Mackinnon approved my notes as drafted whilst Mr Masters, Ms Culver and the other two interviewees made some minor amendments and clarified certain issues.

- 2.6 I then deleted all the recordings.
- 2.7 It should be noted that save where the contrary appears, the views, opinions and statements of fact set out in Sections 3 - 7 below are those of the interviewees concerned.

3. FORMER COUNCILLOR STEVE MASTERS

- 3.1 As noted above, I interviewed Mr Masters (SM) via Zoom on 3 April. I began by asking him whether his understanding was that Cllr MacKinnon (RM) was probably going to apologise for the language he had used in his tweets but that he had never actually got round to doing so. He confirmed that RM was requested informally to apologise, but explained that there was a considerable 'back story' to this matter. He explained that a Subject Access Request had been submitted in an effort to establish from official email traffic whether there was a pattern of inappropriate behaviour on the part of members of the Executive Group and senior members of the Council.
- 3.2 The result of the search (which took over a year) disclosed that Lynne Doherty (former Leader – see below) had sent emails asking the Conservatives' Democratic Services political assistant to search for hashtags – thus using public resources for political ends – so that the Conservatives could 'smear' SM.
- 3.3 SM is still on Newbury Town Council but is no longer a member of WBC. He served as a 'Green' from 2019 until 2023.
- 3.4 I asked SM about the origin of the disagreement that gave rise to the complaint under investigation. He explained that during his re-election campaign in 2023, he and friends and colleagues had been delivering Green Party leaflets round the ward and one leaflet was posted through the door of Lynne Doherty - former fellow Ward Councillor, Tory and at that time Leader of the Council, but no longer on the Council having, like SM, lost her seat at the May 2023 elections.
- 3.5 She objected to his leaflet on the Tory candidates' WhatsApp group and matters escalated from there. Someone took screenshots of the WhatsApp exchanges because they were so dismayed by them. SM was described as a '*poisonous little toad*' in a post by RM. RM's wife then 'chimed in' along the lines of '*There are people who can sort things out, including my husband*'.
- 3.6 A candidate whom SM believed to have been new to the group asked '*Do I have to be more violent?*'
- 3.7 I asked SM what he believed Lynne Doherty had objected to. His reply was '*I think it's because it said 'Only Steve worked hard all year round*'.
- 3.8 SM raised with the Council's Chief Executive his conviction that there was a culture of bullying within and by the Conservative Group but in a nutshell, he got nowhere.

- 3.9 It was a member of the Conservative Group who took the screenshots of the WhatsApp exchanges and actually went to the Police before telling SM about it. It was only with the greatest reluctance that the person who took the screenshots handed copies over to SM.
- 3.10 SM said that RM had previously been complained about by members of the public because of the way in which he had criticised SM on social media. The whole environment was very toxic.
- 3.11 I asked SM if he could narrow down what it was that he wanted RM to apologise for, other than (obviously) his calling SM ‘*a poisonous little toad*’. He commented that violence and violent language has over recent years been normalised in political discourse. He regards this trend as extremely ill-judged and not language becoming of someone in public office. He commented: “*The ‘poisonous little toad’ is trivial, I’ve been called worse I’m sure. It is the allusion to violence that requires the foremost apology.*”
- 3.12 Although the post was in theory in a private group, someone in that group felt disturbed enough by what they had read to raise it with the Police.
- 3.13 The Group was a Conservative Candidates’ WhatsApp group, one member of which was a WBC employee – their political assistant, who contributed to the group’s exchanges. SM regards the fact that this assistant was a member of the group as determinative of RM acting as a Councillor when making the posts the subject of his complaint.
- 3.14 SM said that he would accept a ‘proper’ apology at a Council meeting but not a ‘*mealy-mouthed*’ apology by email along the lines of ‘*I’m sorry if you feel that.....*’ The apology should cover not only the comments directed at SM but also the nature of the language used which SM considers is unbecoming for someone in RM’s position.

4. THE ALLEGEDLY OFFENSIVE MATERIAL

- 4.1 Mr. Masters’ complaint (See **Appendix 1**) was accompanied by a very extensive (almost sixty pages) reproduction of exchanges of posts on Social Media and other material including emails and an extract from a local newspaper. The following extracts from this material are to be found on pages 93, 96, 97 and 101 of Agenda Item 7A of the Initial Assessment Meeting held on 13 April 2023. Although copies of the entire document can be made available upon request, given that the facts of this matter are undisputed, I do not consider it either necessary (or indeed practical) to reproduce it in its entirety here.
- 4.2 The following is a summary of what appears on each of those pages:

Page 93:

Cllr Mackinnon: *“Did the poisonous little toad actually deliver that to your house?”*

Cllr Doherty: *“Yes:”*

Page 96:

Cllr Mackinnon: *“I see we’re choosing violence today. Love to see it.”*

Sarah (?): *“New to the group, so I need to be more violent do !!!!”*

Cllr Mackinnon: *“Come for the leader, you best not miss”*

Page 97:

Amanda Mackinnon: *“Hi Sarah. fellow Newbie here, but Ross is my husband so I’ve had the pleasure to meet many of the wonderful people on this chat already. We don’t all choose violence here but if you ever need back up we’re got a few characters ready to go...my husband for one”.*

Page 101:

Amanda Mackinnon: *“For when these WhatsApps get leaked we clearly mean violence on social media and not actual violence...these guys are all pussycats really, even the Glaswegian!”*

5. CLLR CAROLYNE CULVER

- 5.1 At Mr Masters’ (SM) request, I contacted his partner Cllr Carlyne Culver (CC) and spoke to her via Zoom on 26 April.
- 5.2 At the material time, CC was the Green Party’s Group Leader. Unlike SM, who lost his seat at the May 2023 elections, CC was re-elected and she continues to represent the Ridgeway Ward on WBC.
- 5.3 When the unpleasant comments on the Conservative Candidates’ WhatsApp group were made, CC acted as support to SM. She had various conversations with the Police about the matter. She regards the conduct of the Group members as entirely inconsistent with the LGA’s ‘Debate Not Hate’ initiative.
- 5.4 She also commented that no form of vetting of candidates takes place and there is no control over who says what during the WhatsApp exchanges. Her concern is that nobody senior in the WhatsApp group intervened after the comments were posted to say that they were inappropriate or even to clarify whether the language was metaphorical.
- 5.5 There is no means of ensuring that everyone in such a group knows and understands what exactly is meant by ‘violence’ in this context nor of guaranteeing that they might not take physical action against someone. This

concern has been highlighted by the murder of two MPs, Jo Cox and Sir David Amess.

- 5.6 CC commented that if the expression does not imply the use of physical force, but is, as has been suggested, one with some currency among, particularly, younger people it was an odd one, given their age, for Cllr Mackinnon, an existing councillor, and his wife to have used during the last election campaign.
- 5.7 I asked CC for her view on whether Cllr Mackinnon was acting as a councillor at the material time. Her response was that the comments were made as part of a WhatsApp chat between councillors seeking re-election and candidates seeking election for the first time. The comments were made in the context of a discussion about the election campaign. If Cllr Mackinnon had made the comments to his mates in a private chat only then could it be argued that it was private and not a situation to which the Code of Conduct applied.
- 5.8 I asked CC what she knew about the composition of the WhatsApp group. She does not have a comprehensive list of members but is aware that Cllr Mackinnon and Lynne Doherty (both seeking re-election) were members, as were Cllr Mackinnon's wife, and another lady whose name she could not recall but who apparently was noted as having said something along the lines of '*Oh, I need to be more violent do I?*'. Her understanding is that the group comprised councillors seeking re-election, other candidates seeking election and other people supporting their campaign including the Conservative Assistant who was paid for by WBC.
- 5.9 CC knows which member of the group disclosed the screenshots and told me that the person concerned said that involvement of the police was the way forward. There was no willingness to hand over screenshots to the Greens. CC understands that one other councillor member of the Conservative group also had concerns and went to the Police. The primary concern was talk about violence rather than Cllr Mackinnon's calling SM '*a poisonous little toad*', which, she said, might almost have been regarded as political badinage.
- 5.10 CC's greatest concern is the potential for people involved in groups such as that under discussion to be radicalised, especially considering that parties do not yet vet people (e.g., no DBS checks are carried out) and she considers that the WBC Chief Executive has a role to play in rising above all the politicians and underlining the importance of the LGA's '*Debate not Hate*' campaign, the true objective of which is not to stifle criticism but to ensure that hate speech is not used in political debate.
- 5.11 Finally, she remarked that it is not the role of a party assistant paid for by WBC to get involved, as happened here, in party political campaigning.

6. OTHER INTERVIEWEES

- 6.1 At SM's request, I also spoke to two other former councillors, both of whom, out of what appeared to be a genuine fear of reprisals and / or repercussions, wished to remain anonymous.

- 6.2 Anonymous testimony has very limited evidential value save in exceptional circumstances, none of which apply here but it is right to say that neither interviewee told me anything significant that I had not already gleaned from my examination of the documentation supplied with my instructions and / or my interviews with SM and CC. Both however confirmed that the comments about violence had been referred to the Police.
- 6.3 Whilst neither interviewee believed that there was an immediate threat of physical violence, both believed that the conduct complained of should be nipped in the bud, particularly in the light of the murders of Jo Cox and Sir David Amess – hence the involvement of the Police. It is however far from clear what effective action if any was taken following their involvement.

7. CLLR ROSS MACKINNON

- 7.1 I interviewed Cllr Mackinnon (RM) on 19 April. He had previously responded in some detail to the complaint in his submission to the Initial Decision Assessment meeting in April 2023. For ease of reference, I reproduce his response here:

Cllr Masters' complaint relates to private messages made by me, in a personal capacity, on a closed and encrypted WhatsApp chat group comprising prospective Conservative candidates at the forthcoming elections to West Berkshire Council in May 2023. Some of the prospective candidates in the chat group are sitting Councillors, others are not. Several sitting Conservative Councillors are not standing for re-election – they are not part of the chat group.

Capacity

Paragraph 3.1 of the Code of Conduct describes the application of the Code:

“This Code applies to Councillors and Co-Opted Members (e.g. whenever they are acting, claiming to act, or giving the impression they are acting in their Capacity as a Councillor or Co-Opted Member). Where a councillor is not acting with Capacity no breach of this Code is likely to occur.”

Appendix 1 of the Code defines “Capacity”:

“a Councillor or Co-Opted Member is acting in their Capacity as such when they are:

- 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. ”

Appendix 1 also defines “Meeting”:

“any meeting of:

- the Council;
- the executive of the Council;
- any of the Council's or its executive's committees, sub-committees, joint committees, joint sub- committees, task groups, or area committees”

My participation in the chat group is not a Meeting as defined by the Code, or a briefing meeting with officers and members of the public. Nor was I corresponding with the Authority. I was also not acting, claiming to act, or giving the impression that I was acting as a representative of the Council. My participation in the group derives from my status as a prospective candidate in the forthcoming election, as is the case with many other prospective candidates in the group who are not sitting Councillors. No Council business was discussed in the group. I used my personal smartphone to communicate in the group.

It follows that, per paragraph 3.1 of the Code, no breach is likely to have occurred as I was not acting in my capacity as a Councillor. That selected messages from the chat group were subsequently disclosed, in breach of confidence, to Cllr Masters by a chat group member, does not affect the capacity in which I was acting when communicating in the chat group.

It is therefore my position that Cllr Masters' complaint fails on this point.

- 7.2 Cllr Mackinnon also addressed the most controversial element of the posts – 'choosing violence':

"Choosing violence" is a metaphor referring to a strong social media response by members of the chat group to a dishonest Green Party leaflet. The phrase is widely understood by social media users in that context. A quick Google of the phrase shows this. There is absolutely no question that my comment referred to, encouraged, incited, or even joked about, physical violence against any person or group of persons.

Subsequent references to "violence" by the group members must be seen in that context. Indeed, a message posted by my wife, who is a prospective candidate, joking about the recent Matt Hancock WhatsApp leaks, makes it explicitly clear that social media activity is being referred to. Cllr Masters himself concedes in his complaint that "we do not have the full transcript of what else was in the WhatsApp chat".

This is precisely the problem. Individual messages have been disclosed out of context and reported in bad faith by the Green Party and the press, some implying and others explicitly stating that the Conservatives are joking about or even inciting violence against Cllr Masters in order to deliberately damage our reputation. The responses and comments he refers to and reproduces in his complaint are predictable given the incomplete and misleading reporting of the chat group messages".

- 7.3 Cllr Mackinnon told me that that SM had been viciously attacking him and his colleagues on social media. On the morning in question, Lynne Doherty who was standing in the same ward as SM was particularly upset by the wording of a campaign leaflet that SM had delivered to her house.

- 7.4 RM acknowledged that '*poisonous little toad*' was not a very kind description and not one he would use in public but this was a purely private discussion and he emphasised that there had been a long history of vitriolic provocation on the part of the Greens.
- 7.5 He emphasised that the WhatsApp group had no connection with the Council as such – it was a private group to facilitate discussion and sharing of information about the forthcoming election campaign. RM is adamant that he was not acting as a councillor when he posted the comment and his membership of the group came about because he was standing as a candidate and not because he happened to be one already.
- 7.6 One member of the group (whom RM was not prepared to identify, although I have since been told who it was) disclosed the post to SM but RM was reticent as to that person's motive for the disclosure and suspects a political motivation.

8. THE CODE OF CONDUCT & MATERIAL CONSIDERED

- 8.1 The Council's Code of Conduct for Councillors may be found in Part 13 of the WBC Constitution.
- 8.2 In common with those adopted by local authorities across the country, the Code is based on a national model and framed against the background standards of the Seven Principles of Public Life ('The Nolan Principles').
- 8.3 Anyone bringing a complaint of an alleged breach of an authority's code of conduct is not obliged to specify which particular paragraph(s) of the code the Subject Member is considered to have breached and it is open to the Monitoring Officer and / or the Investigator to cast the net wider if it is considered appropriate to do so.
- 8.4 In this instance, Mr Masters cited the Council's Social Media Protocol for Councillors (Appendix K to Part 13 of the Code) as well as the following specific paragraphs of the Code of Conduct:
- 4.1 (a) – Councillors must treat councillors, officers, members of the public and service providers with courtesy and respect;
- 4.2 (a) – Councillors must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation;
- 4.2 (f) – Councillors must conduct themselves in a manner which could reasonably be regarded as bringing their office or their council into disrepute.
- 8.5 I do not consider any other parts of the Code to be applicable in this instance and I have therefore assed Mr. Masters' complaint accordingly.

9. ARE THE FACTS IN DISPUTE?

- 9.1 In my view, the short answer to this is no. The evidence is there to show that Cllr Mackinnon referred to Mr. Masters as *'a poisonous little toad'*. Indeed, he acknowledged that he did so and although he admitted that it was not a very kind description and not one he would use in public, he has not apologised for using it.
- 9.2 I have not been able to identify a reference to the use of violence specifically against Mr Masters but several references to the use of violence are made by Cllr Mackinnon and others. I address the meaning of violence in this context below.
- 9.3 I am therefore satisfied that the basic facts as alleged by Mr Masters are established on the balance of probabilities, which is the applicable standard of proof in matters such as this.

10. WHAT DOES 'CHOOSING VIOLENCE' MEAN?

- 10.1 The advent and exponential growth of social media has over the past few years seen a huge rise in new traditions, conventions, conversational shorthand, 'emojis' and phraseology, more particularly amongst the younger generation and in many instances, resulting in words acquiring the exact opposite of their traditional meaning, *'wicked'*, *'sick'* and *'bad'* being just some examples.
- 10.2 'Savvy' and regular users of social media may well be familiar with the development of such trends but others less used to this form of communication are not and it is therefore all the more important that communications that deliberately or accidentally find their way to a wider audience should be phrased in such a way that their real intention is clear.
- 10.3 The prospect of the supposedly confidential content of the Conservative WhatsApp group being leaked was clearly present as evidenced by Mrs Mackinnon's comment:

"For when these WhatsApps get leaked we clearly mean violence on social media and not actual violence...these guys are all pussycats really, even the Glaswegian!"

- 10.4 I take it that *'the Glaswegian'* is a reference to Cllr Mackinnon.
- 10.5 According to Wikipedia (which may not be the most reliable source of accurate information but is nevertheless probably on point in this instance) the expression *'choosing violence'* was first noted as being used in an idiomatic sense in the television series *'Game of Thrones'* to express that one is firmly committed to making one's own choice(s) regardless of disapproval from others.
- 10.6 Individuals are of course free to express themselves as they think fit, but it must be right to take into account the context within which they do so and having in mind their likely audience.

10.7 Whatever currency the phrase '*choosing violence*' may have acquired amongst the social media cognoscenti, it is irresponsible and totally inappropriate to use it in a forum which one would hope was irrevocably committed to the principle of democracy and 'Debate Not Hate'. Little wonder that more than one member of the Conservative WhatsApp group was, to put it mildly, uncomfortable with the use of the phrase and all that it might appear to imply and encourage and decided to involve the Police.

11. WAS THERE A BREACH OF THE CODE?

11.1 This question has of necessity to be addressed in two stages, in that a breach can only be established if (1) the factual evidence is present and (2) Cllr Mackinnon was bound by the Code at the material time.

12. IS THE FACTUAL EVIDENCE THERE?

12.1 This question has already been answered in Section 9 above. The posts are there for all to see and Cllr Mackinnon has not denied that he called Mr. Masters '*a poisonous little toad*' or that he made a reference to '*choosing violence*'.

13. WAS CLLR MACKINNON BOUND BY THE CODE?

12.1 This question is less straightforward. Although the Code of Conduct was in force at the material time and Cllr Mackinnon was on the face of it bound by its provisions provided that he was acting as a councillor at the material time, he argues, in a nutshell, that the WhatsApp exchanges were an entirely private matter and that there was no nexus between the Council or his standing as a councillor and the activity in which he was engaged at the material time.

12.2 In reaching my conclusion in this matter I have sought to balance the strictly legal view (in effect, that advanced by Cllr Mackinnon) on the one hand with the more pragmatic approach that I believe to be appropriate in this case as expressed by Mr Masters and those who spoke in his support.

12.3 Political campaigning is not council business, but I agree with Cllr Culver that those members of the Conservative WhatsApp group who were councillors were known to be such and should have conducted themselves accordingly, not least in front of those members of the group who were not yet even candidates for election.

12.4 I also endorse Cllr Culver's comment that Cllr McKinnon's actions have brought the Council into disrepute as a result of the messages finding their way into the public domain – presumably something that Cllr Mackinnon would not have wanted to happen but which, as witnessed by the comment from his wife, was clearly anticipated as a possibility.

12.5 A number of the people whom I interviewed were firmly of the view that use of expressions such as '*choosing violence*' is unacceptable and that it was not acceptable to normalise this type of language amongst a group the composition

of which included some sitting councillors. This might give the impression that this was acceptable behaviour by West Berkshire Council members.

- 12.6 It took some time for Codes of Conduct and corresponding guidance from the Local Government Association to 'catch up' with the changes wrought by the growth of social media but most local authorities now provide training in its responsible use and indeed echo the advice contained in LGA guidance to the effect that some councillors have found it helpful to have separate social media profiles for personal and local authority use, though even the strictest privacy settings are no guarantee that posts or actions will remain private.
- 12.7 The LGA guidance specifically says this: '*As a rule of thumb, never post anything online you would not be comfortable saying or sharing in a public meeting*'.

13. CONSIDERATIONS

- 13.1 During the course of this investigation, I have been given a good deal of 'background information' which those to whom I spoke clearly felt I needed to know in order to understand the context in which Mr Masters' complaint arose. It quickly became clear to me that there has been a history of political unpleasantness and the development of a very toxic atmosphere amongst and between certain factions of WBC and whilst this might well go some way to explain what has given rise to this investigation, I have put political considerations aside and concentrated on the essential issue of whether there has been a breach of the WBC Code of Conduct.
- 13.2 I am not the final arbiter in this matter. My function is to investigate and to offer a view as to whether there has been a breach of the Code of Conduct. It is for elected members of the Governance Advisory Panel of WBC to make the final decision and, if appropriate to consider what sanction, if any, might be appropriate.
- 13.3 The standard of proof applicable in cases such as this is the civil standard of the 'balance of probabilities'. This is not a criminal investigation, to which the stricter standard of 'beyond all reasonable doubt' applies. This means that in order to find a breach, the decision maker has to conclude that it is more likely than not that a breach occurred.
- 13.4 Whilst I do not dispute the logic of Cllr Mackinnon's strict interpretation of the wording of the Code as set out in Paragraph 7.1, I believe it is necessary to look beyond the 'letter of the law' to the surrounding circumstances, the most significant of which in my view are that he was, at the time he made the posts, a high-profile serving councillor, known to be such and was proposing to stand for re-election.
- 13.5 His remark was made about another serving councillor who was also hoping to be re-elected to WBC and it was addressed to (inter alia) other prospective candidates who might reasonably have supposed that the sort of conduct Cllr

Mackinnon was exhibiting acceptable behaviour by a senior elected representative.

- 13.6 I do not consider that the fact that the posts were (or rather were intended to be) private can simply absolve Cllr Mackinnon of his obligations as to conduct, particularly as the abusive comment was directed at another councillor. The fact that membership of the WhatsApp group included a WBC employee lends credence to my belief that there were links to WBC, thus bringing the Code into play.

14. DRAFT CONCLUSION

- 14.1 The sort of language to which Cllr Mackinnon and others involved resorted was, frankly, disgraceful, unprofessional and unbecoming of anyone in public life. It is quite obvious that this matter should never have got to the stage of a formal investigation. It could and should have been resolved months ago by the simple expedient of Cllr Mackinnon making an appropriately worded apology to Mr Masters.

- 14.2 His doing so would have put this matter to bed without the need for the expenditure of time and money necessarily involved in an investigation.

- 14.3 Having given the matter detailed consideration, I concluded that:

(1) by his conduct, Cllr Mackinnon failed to treat Cllr Masters (as he then was) with courtesy or respect contrary to Paragraph 4.1 (a) of the WBC Code of Conduct;

(2) through his irresponsible and inappropriate use of the phrase '*choosing violence*' he conducted himself in a manner which could reasonably be regarded as bringing his office and his council into disrepute, contrary to Paragraph 4.2 (f) of the Code and

(3) Whilst I regard Cllr Mackinnon's gratuitous insult aimed at Mr. Masters as childish and totally inexcusable, I do not consider that of itself it amounted to a breach of Paragraph 4.2 (a) of the Code of Conduct (Bullying).

15. RESPONSES TO THE DRAFT REPORT

- 15.1 I sent the draft report to Mr. Masters and Cllr Mackinnon on Thursday 16 May and invited them to let me have any comments by close of business on Friday 31 May.

- 15.3 Mr. Masters' only comment on the draft report related to the allegation in Paragraph 7.3 that he had viciously attacked Cllr Mackinnon and his colleagues on social media. He commented as follows:

'This is untrue and Mrs Doherty's complaint to that effect was found to be unfounded as all references were to national conservative party policies and actions. This again demonstrates the alternative reality Cllr Mackinnon inhabits

where simply being a Conservative party member is somehow a protected characteristic.'

15.4 At Cllr Mackinnon's request, I removed a reference in the draft report to the forthcoming General Election. His remaining comments and my responses are as follows:

1. **RM Comment:** *'The original panel accepted that "choosing violence" was a metaphor, yet you have included this in the scope of your investigation'*

RGL Response: The purpose of an independent investigation is to look afresh at the facts of a case. It is not appropriate simply to accept the findings or opinion of another person or body without applying independent thought.

It should be quite clear from Section 10 of this report that I have done just that. See in particular Paragraph 10.7. I also checked the scope of my investigation with Ms Thomas before sending out the draft report.

2. **RM Comment:** *'At no point in our conversation did you ask me about "choosing violence". Our conversation solely concerned "poisonous little toad". You have therefore reached conclusions on "choosing violence", opposite to those reached by the panel, without any input from me on the issue. This is outrageous.'*

RGL Response: Ironically, it was because Cllr Mackinnon submitted such a comprehensive response to the complaint for consideration by the Panel, that I did not think it necessary to canvass this with him in any further detail.

He made his position on the meaning of '*choosing violence*' quite clear and the fact that I maintain reservations about the impact of such a phrase on those not 'in the know' does not detract from my independence or the validity of my view. It is not correct that Cllr Mackinnon had no input on this issue.

3. **RM Comment:** *'You have spoken to several people who are supporters of Mr Masters in this complaint. You have not spoken to any other members of the chat group except for those suggested by Mr Masters. You have not spoken to former Cllr Doherty, or my wife. Yet you have reached a conclusion about what my wife meant by her comments on the group. I am sure her meaning is the opposite of what you ascribe.'*

RGL Response: The fact that those to whom I have spoken and whose concerns were passed on to me were quite clear in their concern about the nature of the language used – so concerned indeed that the Police became involved – speaks volumes as to how the language used was regarded. in certain quarters.

I too am sure that Mrs Mackinnon's meaning is the opposite of what I ascribe – that does not detract from the validity of my coming to a different view.

4. **RM Comment:** *'You mention that individuals should consider their likely audience in mind when expressing themselves. I suggest that I know the attributes of my audience in a private chat group somewhat more than you do, given that you have not seen fit to ask any of that audience for their views, except for the naturally biased member put forward by Mr Masters.'*

RGL Response: I agree that Cllr Mackinnon will indeed know the attributes of his audience better than I do, but at least one of them (and almost certainly more) were clearly uncomfortable with the use of the phrase 'choosing violence' and it is significant that Mrs Mackinnon anticipated the possibility of its use being leaked and felt the need to explain it. See Paragraph 10.3.

5. **RM Comment:** *'You have made a very emotive conclusion which I suggest goes far beyond the remit of what your investigation should include'*.

RGL Response: I reject Cllr Mackinnon's suggestion. As with the sixty-plus investigations that I have conducted over the past thirteen years, I have striven in this case to come to a view that I consider to be fair and balanced. Emotion does not come into it.

6. **RM Comment:** *'You have not justified why you consider that I was "acting as a representative of the Council", which would bring the code into play. In fact, you recognise that in a legal interpretation I was not. In a "pragmatic" interpretation, you say I am. In proceedings such as these, we do not (or should not) impose our personal "pragmatic" feelings to reach an outcome. That is stretching the bounds of fairness to breaking point.'*

RGL Response: I addressed this point in Paragraphs 12.2 to 12.5 above and have nothing to add.

16. FINAL CONCLUSION

- 16.1 I did not consider it necessary to amend the draft report otherwise than by the insertion of Mr. Masters' comment as above, together with Cllr Mackinnon's comments and my responses, or to change my draft conclusions.

- 16.2 I therefore stand by the conclusions set out in Paragraph 14.3 above, namely that:

(1) by his conduct, Cllr Mackinnon failed to treat Cllr Masters (as he then was) with courtesy or respect contrary to Paragraph 4.1 (a) of the WBC Code of Conduct;

(2) through his irresponsible and inappropriate use of the phrase '*choosing violence*' he conducted himself in a manner which could reasonably be regarded as bringing his office and his council into disrepute, contrary to Paragraph 4.2 (f) of the Code and

(3) Whilst I regard Cllr Mackinnon's gratuitous insult aimed at Mr. Masters as childish and totally inexcusable, I do not consider that of itself it amounted to a breach of Paragraph 4.2 (a) of the Code of Conduct (Bullying).

Richard Lingard
1 June 2024

THE COMPLAINT

Complaint

I wish to formally complain about the conduct of Cllr Ross MacKinnon.

In the Newbury Weekly News of the 16 March 2023, it emerged that Cllr MacKinnon had made the following statements in a WhatsApp platform group chat in reference to me:

"I see we are choosing violence today. Love to see it" He also referred to me, as a *"poisonous little toad"*.

Such was the tone of the exchange that others joined in, speculating that they themselves need to be "more violent". Cllr MacKinnon's wife, Amanda MacKinnon, then added "We don't all choose violence here but if you ever need back up we've got a few characters ready to do ... my husband for one."

The NWN report received widespread attention and universal condemnation of the language used.

Cllr MacKinnon issued an apology to me on January 13, following offensive comments he about me on social media, after a complaint about his behaviour was partially upheld. To endure further abuse less than 3 months later from Cllr MacKinnon clearly indicates a deliberate and sustained pattern of behaviour and the ineffectiveness of previous sanctions.

This complaint is because I strongly believe Councillor MacKinnon has breached the Social Media Protocol for Councillors, The Councillors Code of Conduct and the Nolan Principles and through the subsequent media attention he has brought the council in to disrepute.

The Constitution

Appendix K Social Media Protocol for Councillors

For the avoidance of doubt, I am operating on the basis that Whatsapp is widely considered social media given its obvious characteristics (indeed multiple sources are available online that confirm this), and therefore comes under the provisions of the definition in Appendix K of the Council's Constitution, Social Media Protocol for Councillors, updated January 2018. Whatsapp is clearly a social media platform with networking and community-building capabilities, allowing you to customise and identify yourself to others and participate in discussion. As such, it again falls within the realms of "social media" which by the council's own admission has a broad meaning in Appendix K:

“It is difficult to give definitive advice on the application of the Code of Conduct to social media use and there is developing case law in this area. However, if you use a social media platform where you identify yourself or can otherwise be identified as a Councillor, either in your profile or otherwise, there is a strong likelihood that you will be regarded as acting in your Capacity as a Councillor.”

Clearly, Cllr Mackinnon’s comments meet the provisions of this protocol. He is obviously identifiable as a councillor, participating in a group of councillors and candidates, and moreover is a portfolio holder. His comments were not made under anonymity. Indeed, his identity was clear enough for the police to contact a number of councillors following concern from members of the group.

It is unclear at this time whether Cllr MacKinnon was using his council-issued equipment to participate in the conversation; if this could be established definitively, I suggest it puts an even more serious complexion on the issue. However, even if this is not the case, the matter is still extremely serious and has caused a great deal of upset.

Appendix H – Councillor Code of Conduct

4.1 a) – councillors must treat councillors... with courtesy and respect

4.2 a) – councillors must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation

4.2 f) – councillors must conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

I would be fascinated to learn how Councillor Mackinnon’s behaviour could possibly have escaped the scope of these provisions. He has clearly treated me with an absence of respect on more than one occasion, he has engaged in behaviour which can clearly be regarded as bullying or intimidation (see below), and the subsequent release of this material to the public has clearly brought the council, and his office, into disrepute

Definitions (Appendix 2)

(My emphasis)

‘Bullying or intimidating behaviour’ means offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group. (Such behaviour can have a damaging effect on a victim’s confidence, capability and health. Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, **in the company of their colleagues**, through the press or in blogs, [but within the scope of the Code of Conduct]. **It may happen once or be part of a pattern of behaviour**, although minor isolated incidents are unlikely to be considered bullying. It is also unlikely that a councillor will be found guilty of bullying when both parties have contributed to a breakdown in relations.)”

This clearly meets the definition laid down by the council of bullying or intimidating behaviour.

It appears that I am seen by Councillor MacKinnon as a legitimate target for what appears to be an ongoing campaign of harassment. It is disappointing that members of this group of Conservative councillors and candidates were prepared to join in with this abuse.

The Nolan Principles

Again, emphasis mine. I believe these are the principles which have been failed by Cllr Mackinnon's behaviour.

Honesty and Integrity

Councillors should not place themselves in situations where their honesty and integrity may be questioned, **should not behave improperly**, and should **on all occasions** avoid the appearance of such behaviour.

Respect for others

Councillors should promote equality by not discriminating against **any person**, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability.

Leadership

Councillors should promote and support these principles **by leadership, and by example**,

and **should act in a way that secures or preserves public confidence**.

Further Points

Councillor MacKinnon is a senior, serving Conservative member of the executive. He is of a high profile having presented the council budget less than a month before, and holding live chats with members of the public as part of the consultation effort. He was in a group speaking with other councillors BUT ALSO inexperienced individuals who aspire to join the party's ranks as councillors. The published screenshots show no leadership and show no respect for me. The screenshots paint a vivid picture of an environment in which new candidates are introduced to behaviour by Cllr MacKinnon that directly encourages disrespect and violent rhetoric as part of the culture of the group. The Nolan Principles clearly state that councillors should not behave improperly and ON ALL OCCASIONS avoid the appearance of such behaviour.

It has been alleged that this is just "humour". I find this astonishing, and am absolutely unable to see the joke. I am not alone.

Two serving MPs have been murdered in the course of their duties. The atmosphere in the country is already febrile and divided. That anyone would "joke" about "choosing violence" is deeply concerning and reprehensible.

In addition, I understand there has been a suggestion by the Conservative groups that this is either political “dirty tricks” by opposition parties. I reject that entirely as the messages are from a Conservative group and published by an independent newspaper.

It’s also telling that these “high spirits” were of such a nature that they caused enough concern for a member of the group to seek police advice.

We do not have the full transcript of what else was in the WhatsApp chat, only a very partial cross- section of its contents, but it hardly instils confidence in the behaviour of councillors in the rest of the discourse, nor does it reflect well on the council.

Debate Not Hate

In October of last year, Cllr Doherty introduced a motion to council, which passed, that proposed to adhere to a convention of “debate not hate” in line with the LGA campaign of the same name.

All of the council – including Councillor Mackinnon - were therefore signatories to this campaign as I understand it.

Timing and expected response

I would appreciate it if this complaint could be addressed in a timely manner. The previous complaint about Councillor MacKinnon's behaviour to me took over 6 months to resolve which was unacceptable.

Evidence base

I have included the watts app conversation and screen shots of messages from councillors within the conservative group along with media reports and public reaction on social media including but not limited to Burghfield and Mortimer Facebook comments.

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Written Decision of West Berkshire Council's Advisory Panel

Date of the Advisory Panel:	25 June 2024
Reference Number:	NDC06/23
Member who this Decision relates to:	Councillor Ross Mackinnon
Person who made the original allegation:	Mr Steve Masters
Authority:	West Berkshire Council
Chair of the Advisory Panel:	Mike Wall (Independent Person)
Other Members of the Advisory Panel:	Lindsey Appleton (Independent Person), Councillors Jane Langford, David Marsh and Geoff Mayes
Apologies:	Councillors Carlyne Culver and Joanne Stewart
Declarations of Interest:	<p>Anne Budd declared a personal interest in the item by virtue of the fact that she was acquainted with the Complainant as they were fellow councillors on Hamstead Marshall Parish Council.</p> <p>Lindsey Appleton declared that she was on the Initial Assessment that considered this complaint. However, she would remain completely independent on the matter.</p> <p>Councillor Langford declared a personal interest in the item by virtue of the fact that the Subject Member was her political group Leader (Conservative Group).</p> <p>Councillor Marsh declared a personal interest in the item by virtue of the fact that the Complainant was formerly a fellow Green Party Councillor on West Berkshire Council. Additionally, they were both members of Newbury Town Council.</p>

	As these interests were personal and not prejudicial they were permitted to take part in the debate.
Monitoring Officer:	Nicola Thomas (Deputy)
Investigator:	Richard Lingard
Clerk of the Advisory Panel:	Stephen Chard
Date Decision Issued:	3 July 2024

Summary of the Original Complaint

It was alleged that the Subject Member engaged in disrespectful, bullying and intimidating behaviour by referring to the Complainant as a “poisonous little toad” and referring to “choosing violence” in reference to the Complainant in a WhatsApp chat.

Outcome of the Initial Assessment

The complaint which was received on the 23 March 2023 was initially assessed on 13 April 2023 by the Deputy Monitoring Officer and Independent Person (Lindsey Appleton) of West Berkshire Council.

In considering the Complaint, the Deputy Monitoring Officer in consultation with the Independent Person had regard to the West Berkshire Council Code of Conduct, LGA guidance, the Social Media Protocol, the information submitted by the Complainant, and the response by the Subject Member.

It was concluded that the use of the phrase “poisonous little toad” was personal, disrespectful, and inappropriate language towards a fellow councillor, and may constitute a breach of the Code of Conduct and the Nolan Principle of Respect for Others.

On references to violence, the Panel accepted the Subject Member’s clarification that “choosing violence” was intended to be an online metaphor, and concluded that the provided screenshots did not provide sufficient context to determine if a breach of the Code of Conduct had occurred.

The Panel concluded that an informal resolution would be sought with the Subject Member asked to issue an apology to the Complainant.

However, as the apology was not forthcoming, the matter has been fully investigated by an independent investigator.

Conclusion of the Independent Investigator

Mr Richard Lingard was appointed to undertake the investigation on behalf of the Monitoring Officer. He considered the same information made available at the Initial Assessment stage and interviewed the following people as part of the investigation:

- Mr Steve Masters (then Councillor Masters) (Complainant)
- Councillor Ross Mackinnon (Subject Member)

Mr Lingard also interviewed three further people at the request of Mr Masters. Councillor Carlyne Culver and two former councillors, both of whom asked to remain anonymous.

Mr Lingard’s draft report was shared with the Subject Member and the Complainant, and further comments were invited. These comments were incorporated into the final report.

In summary, Mr Lingard’s findings are as follows:

- (a) By his conduct, Cllr Mackinnon failed to treat Cllr Masters (as he then was) with courtesy or respect contrary to Paragraph 4.1(a) of the West Berkshire Council Code of Conduct:
'4.1 Councillors and Co-Opted Members must:
(a) Treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.'
- (b) Through his irresponsible and inappropriate use of the phrase 'choosing violence' he conducted himself in a manner which could reasonably be regarded as bringing his office and his council into disrepute, contrary to Paragraph 4.2(f) of the Code:
'4.2 Councillors and Co-Opted Members must not:
(f) Conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.'
- (c) While he regarded Cllr Mackinnon's gratuitous insult aimed at Mr Masters as childish and totally inexcusable, Mr Lingard did not consider that of itself it amounted to a breach of Paragraph 4.2(e) of the Code of Conduct:
'4.2 Councillors and Co-Opted Members must not:
(a) Engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.'

Views of the Advisory Panel

A summary of the Advisory Panel's discussions is provided below to aid the Governance Committee's deliberations:

In respect of point (a), the majority of the Panel concurred with the findings of the Investigator. While the WhatsApp group was private, this was considered irrelevant as the information had been leaked.

In respect of point (b), the Panel concurred with the findings of the Investigator. They considered that Councillor Mackinnon was acting in his capacity as a Councillor when he made the WhatsApp post and felt that the majority of people would consider that the phrase 'choosing violence' meant aggression and not a metaphor linked to a television programme.

In respect of point (c), the Panel concurred with the findings of the Investigator. A Panel member did however consider that the actions of Councillor Mackinnon amounted to a form of bullying.

One panel member felt it was important to note that the insult aimed at Mr Masters was said about him and not to him.

The Panel did not identify any areas of the Investigator's report that required further clarification.

However, one Panel member held the view that the investigation would have benefited from additional witness interviews. I.e. others on the WhatsApp group. However, the majority of the Panel members felt this was a disproportionate use of resource.

The Panel recommended that the following people be invited to attend the Governance Committee where the matter will be determined:

1. Investigator
2. Complainant
3. Subject Member
4. Monitoring Officer

The Advisory Panel did not make any recommendations should the Governance Committee concur with the finding that a breach of the Code of Conduct has occurred.

Right to Appeal

Under the revised Localism Act 2011 there is no appeals mechanism in place. Parties may challenge the decision by way of Judicial Review in the High Court. Parties are advised to seek independent legal advice prior to pursuing this option

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Sanctions Which Can be Applied to Councillors Deemed to Have Breached the Code of Conduct

- (i) A formal letter to the Member from the Chairman of the Governance Committee indicating the failure to comply with the Code.
- (ii) Removal of a Member from a particular committee which can only be achieved in consultation with the Group Leader of the Members' party.
- (iii) Formal censorship motion via Council initiated by the Chairman of the Governance Committee.
- (iv) A formal press release sanctioned by the Governance Committee summarising the breach.
- (v) A local resolution acceptable to the complainant and subject member and sanctioned by the Governance Committee.

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Complaint: NDC0124

Committee considering report: Special Governance Committee

Date of Committee: 29 August 2024

Purpose of the Report

To consider the Investigator's report about a complaint received from Councillor Tony Vickers (*complainant*) in respect of Councillor Ross Mackinnon (*Subject Member*) from West Berkshire District submitted on 2 January 2024.

Recommendations

The Committee is asked to:

- a) consider if they agree with the outcome of the Advisory Panel that took place on 25 June 2024;
- b) identify any disputed facts;
- c) identify any aspects of the report that require further clarification;
- d) agree on a suitable sanction if they agree that a breach of the Code of Conduct has occurred.

Paragraphs of the Code of Conduct that the complaint might relate to:

Failure to adhere to the following Nolan Principles:

- Honesty and Integrity
- Leadership

General Obligations:

4.2 Councillors and Co-Opted Members must not:

(c) Disclose information given to them in confidence or information acquired by them which they believe or are aware is of a confidential nature except where:

- (i) they have the consent of a person authorised to give it;
- (ii) they are required to do so by law;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice;
- (iv) the disclosure is reasonable and in the public interest;
- (v) the disclosure is made in good faith and in compliance with the reasonable requirements of the Council or its professional advisers.

1 Monitoring Officer's Report

Introduction

- 1.1 A complaint dated 2 January 2024 was received from Councillor Tony Vickers (Complainant), concerning an alleged breach of the Code of Conduct by Councillor Ross Mackinnon (Subject Member). Councillor Vickers is a Liberal Democrat Councillor representing the ward of Hungerford and Kintbury, and was the Portfolio Holder for Planning and Community Engagement at the time of the complaint. He is presently the Vice-Chairman of the Council. Councillor Mackinnon is a Conservative Councillor representing the ward of Bradfield and is currently the Leader of the Opposition and Shadow Portfolio Holder for Strategy and Communications, Finance, Corporate Services, Regeneration, Growth and Strategy Development.
- 1.2 The complaint was considered by the Assessment Sub-Committee of West Berkshire Council's Governance Committee on 25 January 2024 where, taking account of the views of the Independent Person, the Deputy Monitoring Officer determined that the matter be dealt with via an informal resolution, namely that the Subject Member provide a public apology to the Complainant at a meeting of Council and in writing. However, should the apology not be forthcoming then the matter would be investigated fully by an independent investigator.
- 1.3 The apology was not provided and therefore the complaint has been investigated by an independent investigator.

- 1.4 Mr Richard Lingard was appointed to investigate the matter on behalf of West Berkshire Council.

2 Procedure

- 2.1 In considering the complaint, Mr Richard Lingard sets out in his report (Appendix A) that he considered the complaint, the Subject Member's response, and the YouTube link for the recording of the Council meeting that took place on 19 December 2023.
- 2.2 In addition, Mr Lingard interviewed both the Complainant (on 13 March 2024) and Subject Member (on 19 April 2024) via Zoom.
- 2.3 Mr Lingard had available to him West Berkshire Council Code of Conduct for Members.

3 Outcome of independent investigation

- 3.1 In considering the Code of Conduct paragraph 4.2 (c), the independent person found that there was evidence of a breach by virtue of Councillor Mackinnon's disclosure of confidential information.

4 Advisory Panel

- 4.1 The Advisory Panel considered the complaint and the independent assessment. In addition, they benefited from the Investigator's attendance to clarify any points in the assessment and ask questions.
- 4.2 The Advisory Panel concurred with the findings of the independent investigator and therefore referred the matter to the Governance Committee in line with the Constitution.
- 4.3 The Advisory Panel did not form a view on a suitable sanction should the Governance Committee concur with the findings that a breach of the Code of Conduct had occurred.
- 4.4 The Advisory Panel recommended that the following people be invited to attend the Special Governance Committee:
 - (a) Investigator (Mr Richard Lingard)
 - (b) Complainant
 - (c) Subject Member
 - (d) Monitoring Officer

5 Order of Business for Governance Committee

- 5.1 The Governance Committee must consider the information provided as part of the standards complaint that includes:
 - a) The original complaint
 - b) The Subject Member's response

- c) Independent Assessment by Mr Richard Lingard
 - d) Responses from the Complainant and the Subject Member
 - e) Minutes of the Advisory Panel and the recommendation
- 5.2 There is an opportunity for the Complainant or their representative to raise any issue in the Independent Report that they have disputed in their written submission, and they may wish to introduce witnesses on these points.
- 5.3 The Subject Member may make a presentation and they may only raise issues in the report that they have disputed in their written submission.
- 5.4 It will be for the Governance Committee to consider the evidence and representations and shall then make a final determination on the matter.

6 Outcome

- 6.1 Should the Governance Committee determine there is no breach then there will be no further action and the matter will be closed.
- 6.2 Should the Governance Committee determine that there is a breach of the Code of Conduct, then they must consider the sanctions available:
- a) Formal letter from the standards Committee
 - b) Remove from Committee via Group Leader
 - c) Formal censure via motion to Council
 - d) Press release
 - e) Local Resolution

Appendices

Appendix A – West Berkshire Council’s Code of Conduct

Appendix B – Complaint and associated paperwork

Appendix C – Response to complaint by the Subject Member

Appendix D – Initial Assessment Notice

Appendix E – Investigator’s Report (which includes comments from the Complainant and Subject Member on the report)

Appendix F – Advisory Panel Decision Notice

Appendix G – Sanctions which can be applied

Agenda Item 4a

Cllr Ross Mackinnon was in breach of the Members Code of Conduct as per Appendix K to Part 13 of the Council Constitution (paragraph 4.2[c]) in that he did, during the live recorded Extraordinary Council meeting debate on the Withdrawal of the Local Plan Review on 19th December 2023 and in the Newbury Weekly News online publication of that week, disclose information acquired by him which he had admitted he knew was of a confidential nature. I have been told that he also shared extracts from it on social media.

The key aspect of the recording is at 47 minutes and 20 seconds into the Extraordinary Full Council on 19th December 2023. This is where Cllr Mackinnon quotes phrases from my "Notes and Local Plan discussion" email of 26th May 2023.

On 26th May 2023, which was the day after the Liberal Democrat Executive was appointed during the Annual Council Meeting, I sent an email to "All Members Executive" on the West Berkshire Council system giving my thoughts, as Executive Member for Planning, on the very subject that was to be debated on 19th December. Because the Council had not yet updated the email address for All Members Executive, that highly sensitive email went to the [now] Shadow Executive Members led by Cllr Mackinnon. Although he immediately reported the fact to me and I in turn reported it to the Acting Head of Paid Service Clare Lawrence (Executive Director Place) and asked for this error to be corrected, unbeknown to me - because I do not fully understand how the Council email lists work - when on 31st May I used the same email 'chain' to check that, as Ms Lawrence had assured me, the list was now using the Liberal Democrat Executive Members' addresses, the email again went to the Opposition Shadow Executive.

Cllr Mackinnon had on 26th May told me that he would ensure the email was deleted, which I do not doubt happened. However he did not tell me that the email had been sent to him and his colleagues a second time on 31st May. In the Extraordinary Full Council meeting on 19th December, he admitted that he did not delete it (this can be viewed in the recording at exactly 1 hour in).

Despite knowing that its contents were sensitive, he chose to retain it for use in what I suggest was probably an unlawful way and was also in contradiction to the Members Code of Conduct.

He has not since apologised and therefore I feel justified in making this official Complaint.

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Stephen Chard

From: Tony Vickers
Sent: 19 December 2023 20:22
To: Ross Mackinnon
Cc: Sarah Clarke; Jeff Brooks
Subject: The leaked emails sent by eorro

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ross,

I am puzzled by your claim that I sent a further copy of the email after 26th. I can find no such email on my system.

See the email from Clare Lawrence below, sent 31st May.

From: Clare Lawrence <Clare.Lawrence1@westberks.gov.uk>
Sent: Wednesday, May 31, 2023 2:47 PM
To: Tony Vickers <Tony.Vickers1@westberks.gov.uk>
Subject: FW: Notes from our Local Plan discussion
Importance: High

Hi Tony

I am pleased to confirm that the lists have been updated and again apologise this was not done before.

Kind Regards

Clare Lawrence

Clare Lawrence, Executive Director of Place
West Berkshire Council, Council Offices, Market Street, Newbury, RG14 5LD
clare.lawrence1@westberks.gov.uk

From: Tony Vickers
Sent: 28 May 2023 09:33
To: Clare Lawrence <Clare.Lawrence1@westberks.gov.uk>
Cc: Nigel Lynn <Nigel.Lynn1@westberks.gov.uk>; Lee Dillon <Lee.Dillon@westberks.gov.uk>
Subject: FW: Notes from our Local Plan discussion
Importance: High

Hi Clare,

This was extremely annoying and should never have happened. The address "All Members Executive" which I chose to use last Friday to share my email to you with my Lib Dem Executive colleagues was still pointing to the outgoing Conservative Executive. It was a highly sensitive subject politically, as I'm sure you will appreciate.

Our Group Executive **Melanie Booth assured me that** as soon as Lee announced our Executive Team's names – at least a week before Full Council – **she asked IT to make the change**. Clearly it didn't happen, although the Council website does now have all new councillors correctly named including our Executive portfolios.

Luckily Ross Mackinnon picked this up and has done the decent thing.

Cllr Dr Tony Vickers
Liberal Democrat (Hungerford & Kintbury Ward)
Portfolio Holder for Planning & Community Engagement


wbld.org.uk/news

Stephen Chard

From: Ross Mackinnon
Sent: 19 December 2023 20:24
To: Tony Vickers
Subject: FW: Notes from our Local Plan discussion

Importance: High

It's in the chain Tony.

Councillor Ross Mackinnon
Conservative Councillor for Bradfield
Conservative Group Leader & Leader of the Opposition
West Berkshire Council, Market Street, Newbury RG14 5LD
[REDACTED]

From: Tony Vickers <Tony.Vickers1@westberks.gov.uk>
Sent: Wednesday, May 31, 2023 2:52 PM
To: Dominic Boeck <Dominic.Boeck@westberks.gov.uk>; Howard Woollaston <Howard.Woollaston1@westberks.gov.uk>; Jake Carpenter <Jake.Carpenter2@westberks.gov.uk>; Joanne Stewart <Joanne.Stewart1@westberks.gov.uk>; Richard Somner <Richard.Somner@westberks.gov.uk>; Ross Mackinnon <Ross.Mackinnon1@westberks.gov.uk>
Subject: FW: Notes from our Local Plan discussion
Importance: High

I'm trying it so we'll see!

Cllr Dr Tony Vickers
Liberal Democrat (Hungerford & Kintbury Ward)
Portfolio Holder for Planning & Community Engagement
[REDACTED]

wbld.org.uk/news

From: Clare Lawrence <Clare.Lawrence1@westberks.gov.uk>
Sent: Wednesday, May 31, 2023 2:47 PM
To: Tony Vickers <Tony.Vickers1@westberks.gov.uk>
Subject: FW: Notes from our Local Plan discussion
Importance: High

Hi Tony

I am pleased to confirm that the lists have been updated and again apologise this was not done before.

Kind Regards

Clare Lawrence

Clare Lawrence, Executive Director of Place
West Berkshire Council, Council Offices, Market Street, Newbury, RG14 5LD

clare.lawrence1@westberks.gov.uk

From: Tony Vickers
Sent: 28 May 2023 09:33
To: Clare Lawrence <Clare.Lawrence1@westberks.gov.uk>
Cc: Nigel Lynn <Nigel.Lynn1@westberks.gov.uk>; Lee Dillon <Lee.Dillon@westberks.gov.uk>
Subject: FW: Notes from our Local Plan discussion
Importance: High

Hi Clare,

This was extremely annoying and should never have happened. The address "All Members Executive" which I chose to use last Friday to share my email to you with my Lib Dem Executive colleagues was still pointing to the outgoing Conservative Executive. It was a highly sensitive subject politically, as I'm sure you will appreciate.

Our Group Executive Melanie Booth assured me that as soon as Lee announced our Executive Team's names – at least a week before Full Council – she asked IT to make the change. Clearly it didn't happen, although the Council website does now have all new councillors correctly named including our Executive portfolios.

Luckily Ross Mackinnon picked this up and has done the decent thing.

Please ensure that this is put right without delay. I'm copying in Nigel but sending this to you as Acting Head of Paid Staff.

Cllr Dr Tony Vickers
Liberal Democrat (Hungerford & Kintbury Ward)
Portfolio Holder for Planning & Community Engagement

wbld.org.uk/news

From: Ross Mackinnon <Ross.Mackinnon1@westberks.gov.uk>
Sent: Friday, May 26, 2023 3:43 PM
To: Tony Vickers <Tony.Vickers1@westberks.gov.uk>
Subject: RE: Notes from our Local Plan discussion

Hi Tony

It appears that the All Members Executive mailing list has not been updated yet, so this has been sent to me and my colleagues.

We will delete the message as I'm sure you didn't intend to send it to us.

Best regards

Ross

Councillor Ross Mackinnon
Conservative Councillor for Bradfield
Conservative Group Leader & Leader of the Opposition
West Berkshire Council, Market Street, Newbury RG14 5LD


From: Tony Vickers <Tony.Vickers1@westberks.gov.uk>
Sent: Friday, May 26, 2023 2:51 PM
To: All Members Executive <MembersExecutive@westberks.gov.uk>
Subject: FW: Notes from our Local Plan discussion
Importance: High

FYI.

The Inspector wrote to us on 22nd May with a list of [Questions](#) that need answering by 23rd June. I have not yet read them but officers are working on draft Answers. Now I've found the letter I don't need to wait for Clare to answer the bit in my email below that is highlighted for you in yellow. It is in the public domain. I'm keeping track of the dedicated [West Berkshire Local Plan Review website](#).

I see we have a Group meeting on 13th June. I'm away 3-10 June and hope to get sight of the draft paper for Full Council when I get back as well as the draft Answers to the Inspector's Questions. We need then to discuss at Group and Gp Exec, then Ops Board when we have formed our collective view.

I'd be interested in any comments you have on my email and will forward Clare's response when I get it.

Finally (for now) Clare & Eric asked me this 'top level' question: "What are **you** trying to achieve through this Local Plan process?" She said that if they had a better understanding of the outcome we want then they would focus their work on helping us to achieve it. Answers on a **small** piece of paper please!!

Cllr Dr Tony Vickers
Hungerford & Kintbury Ward (Liberal Democrat)
West Berkshire Council

www.wbid.org.uk

From: Tony Vickers
Sent: Friday, May 26, 2023 11:37 AM
To: Clare Lawrence <Clare.Lawrence1@westberks.gov.uk>
Cc: Katharine Makant <Katharine.Makant@westberks.gov.uk>; Eric Owens <Eric.Owens1@westberks.gov.uk>
Subject: Notes from our Local Plan discussion
Importance: High

Dear Clare,

Following yesterday's discussion, I understand this to be the situation. I wish to appraise Executive colleagues as to where we stand with our manifesto commitments that relate to this before we meet next Thursday with our LGA Lib Dem Group peer.

Just to remind you what we committed to:-

No. 2 in our "BIG SIX – to fix a.s.a.p." was "***We will take all available action to change the flawed local plan.***"

I have highlighted the key word! Of course, we lay Members (politicians) **think** the Plan is "flawed". You will no doubt disagree and it is up to the Inspector to decide. I have no doubt that whatever you advise us to do, my colleagues will not readily drop this commitment.

There are also several other features of the Manifesto that will be directly or indirectly affected by the outcome of the LP process. I won't list them here and now but we will have to weigh them up at some stage.

I am left awaiting a paper that will set out three broad options:-

1. Do nothing
2. Request a pause internally re-evaluate some of the evidence.
3. Withdraw the Plan

Option 1

This would in effect seem to put the Executive at odds with the LPA. You told me that having submitted the Council (LPA) Reg 19 draft to PINS, you are obliged to defend it at Examination. On the other hand, as politicians who never voted for the submission to happen and who have consistently said it was “flawed” in respect of NET strategic housing site, we cannot now simply change our minds!

Since I assume it is the new Executive that decides what resources to put into defending the current LP, we might simply not authorise those resources to be spent – or at least limit them to a statutory minimum. We would in effect, consider ways of ‘changing sides’ and act in ways to support other stakeholders who will no doubt seek to change the Inspector’s view to accord with theirs and ours.

The advantage to the Council would (if Executive has its way!) be a speedier outcome, i.e. more nearly meeting the deadline and not risking failure to maintain a 5 year housing land supply. However this carries the risk (for us) that we fail to change the Inspector’s mind. But politically we could say we tried. We would have to demonstrate to the voters somehow that we **had** tried, which is where advice from LGA Lib Dem political colleagues comes in. So it is only a “Do Nothing” option in the sense that it involves no **dramatic** action but is more subtle.

Option 2

This requires an urgent decision. I have not seen the Inspector’s letter which you say recently arrived with Questions that the LPA **must** answer within 25 (? Working) days. You said that when replying – if not before – we/you should ask the Inspector to pause the process for [3-6?] months to allow the incoming Administration (the Executive with officers’ advice) to re-evaluate the evidence on NET and other possible housing sites.

The advantage to us politicians is that this clearly shows action “a.s.a.p.” The disadvantage is that we lose time and increase the risk of failing to maintain that 5-year land supply. There is also an additional cost in terms of officer time: un-budgeted expenditure (opportunity cost when some planning policy officers are helping reduce the applications backlog) that could impact on the budget and other KPIs.

Option 3

Withdrawing the Plan shows voters we are serious. If the Inspector rejects our request to pause the Plan, we would be left to choose between a delayed Option 1 and this ‘nuclear option’! Even if we are allowed a pause, we may after re-evaluating the evidence be advised by you that there is little or no chance that the changes we seek to make to Reg 19 would be allowed, i.e. we might as well withdraw and start again.

There do not seem any advantages at this stage to withdrawal but we do need to have some costings done, because I expect this would have a major impact on budgets for at least 2 years.

I would hope that you are re-reading my submission on before of our (pre-election) entire Group, also that of Bucklebury and Thattham TC. I took as read their comments and my contribution was to attempt to produce alternatives sites that could take the approx. 500 dwellings that Thattham wished to remove from its allocation on NET. Note that they also strongly preferred to put the remaining 750 on different sites adjacent to the current settlement area, of which at least one is PDL. The bulk of those 500 taken off Thattham would, in my view, be accommodated as ‘windfall’ within Newbury or other settlements including Thattham. About 200 would be in countryside linking to our Viable Villages proposal.

All this is in our submission. I attach it in the form that was requested but as a single document, together with Lee’s covering letter.

I would appreciate by return sight of the Inspector’s letter that you referred to. **As soon as possible, Exec needs to see the draft paper.** Please confirm the deadline for a response to be signed off and sent, also confirm whether I am broadly correct with my 3 options.

Finally, you said that it is normal for the Leader and Portfolio Holder to be invited to meetings requested by developers and other stakeholders which come to the Chief Executive. I would very much welcome being included in such meetings.

Cllr Dr Tony Vickers
Liberal Democrat (Hungerford & Kintbury Ward)
Portfolio Holder for Planning & Community Engagement


wbld.org.uk/news

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Agenda Item 4b

Response to Complaint NDC01/24

The email communications as described by Cllr Vickers are correct. He is also correct that I disclosed the contents of the emails during the Extraordinary Council meeting, and to the press and on social media.

However, the content disclosed does not meet the Council's own definition of confidential or exempt information. The content was the Liberal Democrat Executive Member for Planning giving his analysis of policy options on how to proceed with the Local Plan Review.

It contained no information about individuals, their financial affairs, contract negotiations or matters subject to legal privilege. There was a wide distribution list including Executive members and senior officers.

There was a clear public interest in the disclosure of the information, showing as it did Cllr Vickers' privately-held negative opinion on the policy he proposed at the Extraordinary Council meeting.

That said, if Cllr Vickers wishes to pursue this complaint, I would be more than happy for the matter to be debated publicly at a meeting of the Governance Committee, where Cllr Vickers can explain why he thinks the public should not be aware of his and his colleagues' true opinion on the policy they proposed.

Cllr Ross Mackinnon

14th January 2024

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Initial Assessment Decision Notice

Complaint Reference: NDC01/24

Complainant: Councillor Tony Vickers

Subject Member: Councillor Ross Mackinnon

On 25 January 2024, the Deputy Monitoring Officer, Nicola Thomas, and Independent Person of this Authority, Alan Penrith, considered a complaint from Councillor Tony Vickers concerning the alleged conduct of Councillor Ross Mackinnon, a Member of West Berkshire Council.

Brief summary of the complaint is set out below:

- That Councillor Mackinnon disclosed information he had received in error via e-mail, that was of a confidential/sensitive nature, at the Extraordinary Council meeting of 19 December 2023, to the press and on social media.
- Councillor Mackinnon received the information twice. On 26 May 2023, he highlighted to Councillor Vickers that he had received the e-mail in error and that he would delete it. Councillor Mackinnon also received the e-mail on 31 May 2023 but did not communicate the fact or give any agreement to delete it.
- Councillor Mackinnon contests that the information received was not of a confidential or exempt nature. He acknowledges that he did share the information as described. Councillor Mackinnon felt there was a clear public interest in the disclosure of the information.

Potential breaches of the Code of Conduct identified

The following potential breaches of the Code of Conduct were discussed:

Nolan Principles:

- Honesty and Integrity
- Leadership

General Obligations:

Councillors and Co-Opted Members **must not:**

Disclose information given to them in confidence or information acquired by them which they believe or are aware is of a confidential nature except where:

- (i) they have the consent of a person authorised to give it;
- (ii) they are required to do so by law;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice;
- (iv) the disclosure is reasonable and in the public interest;
- (v) the disclosure is made in good faith and in compliance with the reasonable requirements of the Council or its professional advisers.

Decision

In accordance with the Localism Act 2011, following the initial assessment the Deputy Monitoring Officer, in consultation with the Independent Person, is able to decide on one of the following four outcomes:

1. The complaint will be investigated fully by an independent investigator;
2. No further action will be taken on your complaint;
3. Some form of informal resolution will be sought;
4. The matter will be referred to the Director of Public Prosecution or the Police where it is suspected that some form of criminal conduct has occurred in relation to interests that have not been disclosed.

The Deputy Monitoring Officer in consultation with the Independent Person has concluded that in this case:

- Some form of informal resolution will be sought – a public apology from the Subject Member to the Complainant at the Extraordinary Council meeting on 20 February 2024, and in writing. Councillor Mackinnon is requested to draft his letter of apology by 15 February 2024. This will need to be approved by the Deputy Monitoring Officer before being sent to the Complainant.

The Panel reserves the right to have the matter investigated fully by an independent investigator if the apology is not forthcoming.

The Panel did not consider it appropriate for the Subject Member to determine in isolation that the information was in the public interest. There was no consultation with either the Monitoring Officer or Deputy Monitoring Officer prior to the action being taken. The requirement to do so is outlined in the Local Government Association (LGA) Model Code of Conduct.

The LGA Model Code of Conduct also made clear that for a disclosure to be considered in the public interest it needed to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening or is likely to happen in the future:

- A criminal offence is committed.
- Your local authority or some other person fails to comply with any legal obligation to which they are subject.
- A miscarriage of justice occurs.
- The health or safety of any individual is in danger.
- The environment is likely to be damaged.
- That information tending to show any matter falling within the above is deliberately concealed.

The Panel did not consider that the information disclosed fell into any of the above criteria.

The Panel did not consider that the disclosure was made in good faith, rather it was made for political reasons. The Subject Member was aware that the email was not intended for him and further, that it contained sensitive information. The Subject Member indicated his intention to delete the original email. Whilst the further disclosure by the Complainant may have been ill advised, it did not amount to consent for the information to be made public. The disclosure took place in May 2023 and at no point

was there a Monitoring Officer discussion on the seriousness of the issue felt by the Subject Member for the disclosure being considered as reasonable and in the public interest.

In considering the complaint the Deputy Monitoring Officer in consultation with the Independent Person had regard to the Council's Code of Conduct, the information submitted by the Complainant, and the response submitted by the Subject Member.

What happens now?

This Decision Notice is sent to the Complainant, and the Subject Member about which the complaint was made.

No Further Action

The Localism Act does not provide any appeals mechanism to review this decision. However the decision may be reviewed by means of an application to the High Court for Judicial Review of the decision.

Additional Help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010.

We can also help if English is not your first language.

West Berkshire Council is committed to promoting and demonstrating fairness and equality of opportunity. We will ensure that no one is treated less fairly on the grounds of age, disability, gender, gender identity, marriage/civil partnership, pregnancy/maternity, race, religion/ belief, sexual orientation, or on any other grounds, as set out in legislation, which cannot be justified.

If you require this information in a different format, such as audio tape, or in another language, please ask an English speaker to contact Stephen Chard on Telephone 01635 519462, who will be able to help.

Signed

Date: 31 January 2024

Deputy Monitoring Officer Nicola Thomas

Signed

Date: 31 January 2024

Independent Person Alan Penrith

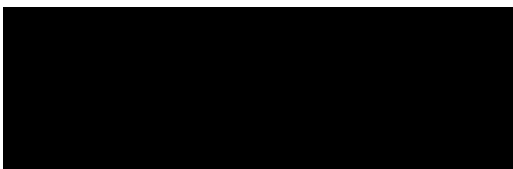
**Report of an Investigation into a Complaint
by Cllr Tony Vickers against Cllr Ross
Mackinnon of West Berkshire Council**

Private & Confidential

Final Version 24 May 2024

**Richard Lingard LLB
Solicitor**

ICO Registration No: Z27409852



Richard Lingard – Curriculum Vitae

Educated at Magdalen College School Oxford and Southampton University, I qualified as a Solicitor in 1980, trained in private practice and spent four years in the commercial sector before going into Local Government.

At the time of my retirement in September 2011, when I became a non-practising Solicitor, I was the Head of Legal & Democratic Services and Monitoring Officer at Guildford Borough Council, for whom I worked for some 30 years.

Since 2011, I have conducted and reported on over 60 investigations covering allegations of misconduct against City, County, Borough, Parish and Town Councillors and Officers. I have also carried out a number of procedural and governance reviews and provide training on ethical standards and the responsible use of social media by councillors. My work has been carried out for local authorities in Berkshire, Buckinghamshire, Hampshire, Hertfordshire, Kent and Surrey.

I am also an Independent Member of the Surrey Police Misconduct Panel.

EXECUTIVE SUMMARY

This is the final version of my report of an investigation that I have carried out into a complaint brought by Cllr Tony Vickers against Cllr Ross Mackinnon of West Berkshire Council ('WBC' / 'The Council') in respect of his alleged breach of the Council's Code of Conduct for members by virtue of his disclosure of confidential information during a Council EGM held on 19 December 2023.

I have concluded that Cllr Mackinnon has breached the WBC Code of Conduct by virtue of his disclosure of confidential information.

1. INTRODUCTION

1.1 Following an initial email dated 1 March 2024 from Nicola Thomas, Deputy Monitoring Officer of the Council, I was instructed by a further email dated 5 March to conduct an independent investigation into a complaint by Cllr Tony Vickers.

1.2 Ms Thomas provided me with a copy of the complaint, the full text of which is reproduced at **Appendix 1** to this report, contact details for the people concerned, a link to a video recording of the meeting during which the alleged disclosure is said to have been made and other related documentation including a copy of Cllr Mackinnon's initial response to the complaint, as considered by the Council's Governance – Assessment Sub-Committee at its meeting on 25 January 2024 (See **Appendix 2**).

1.3 For ease of reference, a brief summary of the complaint is set out below:

- That Councillor Mackinnon disclosed information he had received in error via e-mail, that was of a confidential / sensitive nature, at the Extraordinary Council meeting of 19 December 2023, to the press and on social media.
- Councillor Mackinnon received the information twice. On 26 May 2023, he highlighted to Councillor Vickers that he had received the e-mail in error and that he would delete it. Councillor Mackinnon also received the e-mail on 31 May 2023 but did not communicate the fact or give any agreement to delete it.
- Councillor Mackinnon contests that the information received was not of a confidential or exempt nature. He acknowledges that he did share the information as described. Councillor Mackinnon felt there was a clear public interest in the disclosure of the information.

2. PROCESS

2.1 Following receipt of my instructions, I reviewed the documentation, watched the video recording of the meeting of 19 December 2023 and contacted Cllrs Vickers and Mackinnon, inviting each of them to meet me via Zoom in order that I could hear what each of them had to say about the matter.

- 2.2 I had a Zoom meeting with Cllr Vickers on 13 March and, after some delay caused by his unavailability, with Cllr Mackinnon on 19 April.
- 2.3 In accordance with my usual practice and with their consent, I made recordings of my discussions with both councillors and used them as the basis of notes which I sent to each of them for comment. Cllr Vickers made some minor amendments and clarified certain issues, whilst Cllr Mackinnon approved my notes as drafted.
- 2.4 I then deleted both recordings.

3. COUNCILLOR TONY VICKERS

- 3.1 As noted above, I interviewed Cllr Vickers (TV) via Zoom on 13 March. I began by asking him to explain the nature of the confidential information that Cllr MacKinnon (RM) is alleged to have disclosed at the Extraordinary Council meeting on 19 December 2023.
- 3.2 The information was contained in an email which TV believed he was sending to his LibDem Executive colleagues at 11:37 on 26 May 2023 explaining why he thought that they should not withdraw the Local Plan and setting out the dangers and risks of doing so.
- 3.3 This message was clearly not intended to reach the Conservative opposition. It came about because WBC's IT officers had not changed the group email lists for the Executive and the opposition following the election, with the result that the message went to the outgoing Tory Executive instead of to the incoming Lib Dem Executive.
- 3.4 Cllr Mackinnon (RM) replied to TV at 15:43 that same day as follows:

'Hi Tony

It appears that the All-Members Executive mailing list has not been updated yet, so this has been sent to me and my colleagues.

We will delete the message as I'm sure you didn't intend to send it to us.'

- 3.5 TV emailed Clare Lawrence (Director for his Portfolio) the following day and said, inter alia: *'Luckily Ross Mackinnon picked this up and has done the decent thing'*.
- 3.6 Despite TV's belief that the problem had been fixed immediately, it was not in fact remedied until 31 May and RM (and others) received a further copy of the same email on that day, as well as what TV described as *'a flurry of emails from me to "All Members Executive", all of which were obviously not intended for Opposition eyes'* between 26 and 31 May.

- 3.7 We discussed what RM had said about the matter at the meeting on 19 December, namely that he had received the email on 26 May and that he had deleted it (which TV accepts he did); that he received the same email again a few days later and that he did not communicate with TV but that he '*told no lies whatsoever.*' He neither admitted nor confirmed whether he had deleted the message a second time.
- 3.8 TV said that he had had evidence that RM had also forwarded extracts from the email to other people, some of whom may not have been councillors, but he no longer has proof of this but he knows that RM did share the email with his other colleagues well before the Council meeting in December.
- 3.9 We agreed that we would both check the recording of the meeting because I had not, in my viewing, been able to see or hear RM admit that he had not deleted the email a second time. TV thought that he had done so.
- 3.10 I have viewed the recording again since I spoke to Cllr Vickers. What Cllr Mackinnon actually said at that point (by way of a point of personal explanation) was that he deleted the email the first time he received it, but when he received it for a second time, he did not communicate with Cllr Vickers but '*I did not tell any lies whatsoever.*' He did not say that he had not deleted the message.
- 3.11 TV agreed to send me a copy of the email in question and he subsequently did so, highlighting what he regards as the confidential elements, which in summary are as follows:
1. 'Option 3. Withdrawing the Plan shows voters we are serious'
 2. '(This would be) a 'nuclear option''
 3. '(There) do not seem any advantages at this stage* to withdraw'
 4. 'All available measures' would be used to 'fix' the Plan'.
- 3.12 *The 'stage' in this context refers to day 1 of the LibDems having taken formal control of the Council – i.e., well before exhausting all other perceived options for 'fixing' the submitted plan.
- 3.13 I asked TV to explain the background to why the Local Plan was threatened with withdrawal. He explained that it was primarily an issue concerning Thatcham, whose residents were concerned that the only proposed new large housing development in the Plan was to be established entirely on a greenfield site in North East Thatcham abutting the AONB.
- 3.14 This proposal was a last-minute substitution for a bigger site at Grazeley on the Reading / Wokingham borders which had been ruled out by the Office of Nuclear Safety.
- 3.15 The LibDems' opposition '*pitch*' was, in essence, to object to the bulk of new housing being established on the Thatcham site. Once the LibDems came to

power, they were advised by the Officers that if they pursued their line of argument, it would be seen as a major change to the Plan and would almost certainly cause the Plan to fail.

3.16 The decision not to withdraw the Plan was precipitated by the Government indicating that if the Plan was withdrawn, it would take over the entire process.

3.17 TV explained that what RM was saying, some months after the email was misdirected was, in effect:

'You knew all along that this (withdrawal) was a risky solution and shouldn't be pursued and yet you stuck with your colleagues' desire to do that'.

3.18 TV explained that he did not '*know all along*' how risky this possible solution was, nor even that it would not be possible to 'fix' the Plan by means short of withdrawal. Until about September, there was a view, which he shared, that either the Inspector might accept compromise modifications or that the Council would be able to accommodate the cost and delay without unaffordable risk.

3.19 I asked TV for his reaction to Cllr McKinnon's response to the complaint as annexed to the agenda for the Governance – Assessment Sub-Committee (See **Appendix 2**). He said that as far as information about individuals etc is concerned, he had been advised by the Monitoring Officer that revealing the content of any email that the recipient knew was not intended for him could be '*an offence*'.

3.20 He regards the public interest point as the nub of the issue.

4. COUNCILLOR ROSS MACKINNON

4.1 I interviewed Cllr Mackinnon (RM) on 19 April. He confirmed that he did not delete the email from Cllr Tony Vickers (TV) a second time but left it in his inbox because it gave the Conservatives a very good insight into the internal thinking of the LibDems. He was not necessarily thinking of doing anything with the information it contained until the point at which the proposal to withdraw the Local Plan surfaced in December 2023 and the information became a lot more significant.

4.2 He explained that during the WBC election campaign in May 2023, part of the LibDem 'offering' was to do all that was necessary to 'fix' the flawed Local Plan but as the Plan had already been submitted to the Inspector before the election, 'fixing it' was not a feasible option.

4.3 RM said that the LibDems either realised or had it confirmed to them that there was nothing they could do to 'fix' the Plan, other than withdraw it completely, which is exactly what they proposed at the EGM in December 2023. The Conservatives were confident that the LibDems did not actually want to withdraw the Plan because the consequences of having no Plan or review process in place would have been disastrous in planning terms and would have led to any number of applications for development on unallocated sites that

could not be resisted because there would be no planning policies in place to prevent that happening. The process would become one of planning by appeal.

- 4.4 The Conservatives believe that this was a political move on the part of the LibDems to invite the Government to step in and stop them withdrawing the Plan, which is exactly what happened in the end.
- 4.5 RM confirmed that the Conservatives did not believe that the Local Plan was in fact flawed, not least because it had been drawn up on a cross-party basis over the four years since the previous elections.
- 4.6 One of the controversial provisions (from the Lib Dem point of view) was that the Plan included a significant housing allocation in Thatcham and it was thought likely that this would become an election issue in an area where they wanted to do well.
- 4.7 On 24 November 2022, TV issued a statement which was carried on local media along the lines that the LibDems were broadly happy with the Plan and whilst they reserved the right to make further comments, they would not vote against it. A week later, on 1 December 2022, the Lib Dems did all vote against it.
- 4.8 TV's own words in the email that RM disclosed were to the effect that withdrawal of the Plan would have no advantages whatsoever except that it showed voters that they were serious. It was at this point that RM considered that there was a public interest in the electorate knowing what the LibDem thinking was. The action proposed simply gave the LibDems the political advantage of being seen to do something.
- 4.9 RM agreed that the fourth paragraph of his response on 14 January 2024 to the Complaint was the nub of his defence to the Complaint:
- 'There was a clear public interest in the disclosure of the information, showing as it did Cllr Vickers' privately held negative opinion on the policy he proposed at the Extraordinary Council Meeting'.*
- 4.10 He said that '*privately held*' might not be the appropriate term, as the email was not a private email between two people but part of a discussion paper shared by TV's Executive colleagues and senior officers. RM considers that this did not meet the definition of '*confidential information*' set out in the WBC constitution. He also disputes that the information was provided '*in confidence*'.as the Initial Assessment has it.
- 4.11 I read out to RM the extract from the LGA Model Code of Conduct quoted in the Initial Assessment Decision which enumerates the six matters that justify disclosure as being in the public interest, only one of which appears to be relevant here, namely that the environment is likely to be damaged. He considers that the withdrawal of the Local Plan would / could have had a seriously detrimental effect upon the environment of the district in the form of uncontrolled development of the wrong type in the wrong place.

4.12 In summary, RM considers that WBC had an administration potentially pursuing a policy that it had internally admitted would not be good for the district. Although he anticipates that TV would say that RM had disclosed the information for political advantage, *'two things can be true at once'*.

5. THE CODE OF CONDUCT & MATERIAL CONSIDERED

5.1 The Council's Code of Conduct for Councillors may be found in Part 13.4 of the SBC Constitution (updated in December 2017) at the following link:

https://www.westberks.gov.uk/media/38477/Constitution-Part-13-Codes-and-Protocols/pdf/Part_13_-_Codes_and_Protocols_update_September_2019.pdf?m=1682698413903

5.2 The initial version of the Code was adopted by the Council at its meeting on 10 May 2012 and confirmed at its meeting on 16 July 2012 pursuant to the duty to promote and maintain high standards of conduct by Councillors and others set out in the Localism Act 2011. It came into effect on 1 July 2012 and revisions were adopted on 12 December 2013 and 15 September 2016.

5.3 In common with those adopted by local authorities across the country, the Code is based on a national model and framed against the background standards of the Seven Principles of Public Life.

5.4 Anyone bringing a complaint of an alleged breach of an authority's code of conduct is not obliged to specify which particular paragraph(s) of the code the Subject Member is considered to have breached and it is open to the Monitoring Officer and / or the Investigator to cast the net wider if it is considered appropriate to do so.

5.5 In this instance, Cllr Vickers cites paragraph 4.2 (c) of the General Obligations placed upon members by the Code:

*'Councillors and Co-Opted Members **must not:***

(c) Disclose information given to them in confidence or information acquired by them which they believe or are aware is of a confidential nature except where:

- (i) they have the consent of a person authorised to give it;*
- (ii) they are required to do so by law;*
- (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice;*
- (iv) the disclosure is reasonable and in the public interest;*
- (v) the disclosure is made in good faith and in compliance with the reasonable requirements of the Council or its professional advisers'.*

5.6 A further relevant part of the Code is Paragraph 13.4.4, which provides that:

'As a Councillor or a Committee or Sub-Committee Member, they [Councillors] necessarily acquire much information that has not yet been made public and is still exempt or confidential. It is a betrayal of trust to breach such confidences. They should never disclose or use exempt or confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or discredit of the Council or anyone else.'

5.7 Whilst the Constitution provides definitions of a number of terms and words that appear in the Code of Conduct, it does not define '*confidential information*'.

5.8 The law governing the protection of confidential information arises independently of contract from a principle of equity. To paraphrase Lord Denning MR in Seager v Copydex Ltd (No 1) [1967] 1 WLR 923, a person who has received information in confidence cannot take unfair advantage of it, and must not make use of it to the prejudice of the person who gave the information, without obtaining their consent. Equity acts on the recipient's conscience to prevent them making an unauthorised use or disclosure of the information.

5.9 Most dictionary definitions of the word include the word itself as part of the definition, which is less than helpful, but one (non-local government) authority – 'A Guide to Confidentiality in Health & Social Care' – helpfully says this:

'Common law confidentiality is not codified in an Act of Parliament but built up from case law through individual judgments. The key principle is that information confided should not be used or disclosed further, except as originally understood by the confider, or with their subsequent permission. Although judgements have established that confidentiality can be breached 'in the public interest', these have centred on case-by-case consideration of exceptional circumstances'.

5.10 I consider this to be a pragmatic and sensible iteration of the principle of confidentiality and I have adopted it in assessing this case. The underlined text in the box above is my own emphasis. It therefore seems to me that it is appropriate to attribute to the word its normal and broadly understood meaning.

5.11 As Cllr Mackinnon claims that his disclosure was made in the public interest, I have also had regard to the LGA Model Code of Conduct Guidance which provides that disclosure 'in the public interest' is only justified in limited circumstances, when the disclosure is:

- (i) reasonable
- (ii) in the public interest (interestingly, another self-definition)
- (iii) made in good faith and
- (iv) made in compliance with any reasonable requirements of the local authority.

5.12 The 'reasonable' element requires taking into account:

- (i) the truth or otherwise of the information;
- (ii) whether personal gain is likely to accrue from disclosure;
- (iii) the identity of the person(s) to whom the disclosure is made;
- (iv) the extent of the information disclosed;
- (v) the seriousness of the matter;
- (vi) the timing of the disclosure and
- (vii) whether disclosure involves the local authority in a failing of a duty of confidence to another person

5.13 The 'public interest' test needs to involve at least one of the following matters or something of comparable seriousness:

- (i) the commission of a criminal offence;
- (ii) failure to comply with a legal obligation;
- (iii) a miscarriage of justice is or may be involved;
- (iv) the health or safety of any individual is in danger;
- (v) the environment is likely to be damaged;
- (vi) information re any of the above is deliberately concealed.

5.14 The Guidance states quite clearly that the requirement that the disclosure must be made in good faith will not be met if the person making the disclosure acts with an ulterior motive such as the achievement of a party-political advantage or the settling of a score with a political opponent.

5.15 I comment further on the applicability of these provisions and guidance notes in 'Considerations' at Section 7 below.

6. WAS CLLR MACKINNON BOUND BY THE CODE?

6.1 The Code of Conduct was in force at the material time and Cllr Mackinnon was accordingly bound by its provisions provided that he was acting as a councillor at the material time.

6.2 There is no doubt that he was acting in his capacity as a councillor at the time of his disclosure of the information referred to by Cllr Vickers and he was therefore bound by the Code of Conduct, to which he signed up on taking office.

7. CONSIDERATIONS

7.1 It may be thought that on the face of it, there does not appear to be anything particularly sensitive or confidential contained in the four phrases identified by Cllr Vickers as '*the confidential elements*' listed in Paragraph 3.11 above taken in isolation but applying the principle set out in Paragraph 5.8, it is clear that what Cllr Vickers said in his email to (as he thought) his political colleagues was not intended to be seen or acted upon by anyone else, least of all his political opponents.

7.2 It will be recalled that when he received Cllr Vickers' email for the first time, Cllr Mackinnon did what Cllr Vickers described as '*the decent thing*' and deleted it but when the second one came along, he did not delete it but left it in his inbox

because, and I quote Cllr Mackinnon: '*it gave the Conservatives a very good insight into the internal thinking of the LibDems*'.

- 7.3 Cllr Mackinnon clearly realised that there was the potential to make political capital out of its disclosure because, in his words, '*the information became a lot more significant*'.
- 7.4 His point of personal explanation, articulated at the EGM on 19 December was, in my view, disingenuous. I am not aware that anyone had accused him of telling lies, rather they criticised him for, in effect, failing to '*do the decent thing*' a second time.
- 7.5 I am sure that this matter will have brought home to Cllr Vickers (and indeed others) the importance of checking exactly whose names are in the 'To' box, before pressing 'Send' but the fact that the message was sent a second time did not amount to the giving of consent for its contents to be broadcast. The fact that the second transmission was, like the first, inadvertent, makes no difference.
- 7.6 Cllr Mackinnon knew very well that the contents of the email were not intended for him, not least because he said as much – see Paragraph 3.4.
- 7.7 I am not at all convinced by the argument that the disclosure was in the public interest. It may be argued that it was in the political interests of the Conservative party but that is not the same thing at all.
- 7.8 Of the elements listed as required to pass the public interest test outlined at Paragraph 5.12, (i) to (iv) and (vi) are of no application and it is stretching a point beyond relational explanation for Cllr Mackinnon to argue that there was a genuine nexus between what Cllr Vickers had said in his email and any real danger to the environment.

8. RESPONSES TO THE DRAFT REPORT

- 8.1 I sent the draft report to Cllrs Vickers and Mackinnon on Monday 13 May and invited them to let me have any comments within ten working days thereafter – i.e., by close of business on Friday 24 May.
- 8.2 Cllr Mackinnon made no comments on the draft report.
- 8.3 Cllr Vickers made the following comments on the paragraphs indicated:

Paragraph 3.14:

It was not a “last-minute” substitution for Grazeley to be replaced by North East Thatcham (NET) as a strategic housing site. “Last minute” implies it was only selected in 2022 or later, whereas it was earlier than that.

A major housing development at Siege Cross, east of Thatcham and within the NET ‘red line’ was rejected by SoS in July 2017. Up to mid 2020 Grazeley was still seen by neighbouring Wokingham BC as the main site to provide its new homes. Grazeley straddles the border with West Berkshire. However following new regulations issued by the Office of Nuclear Safety (ONS), West Berks Council undertook a review of the Development Protection Zone (DPZ) in March 2020 decided to expand the DPZ to take in a part of the Grazeley site. This decision was appealed by Wokingham but [confirmed](#) by Government in 2021.

Although in its 2019/20 Regulation 18 (non statutory) Local Plan Review consultation, NET was the only new strategic site, there was still some hope in my mind – and much of the Lib Dem Opposition – that a further appeal would be successful.

Certainly at the time of the Regulation 19 statutory consultation, to which the Lib Dem response in March 2023 was our formal position on taking power in May, we had some hope that the rather rushed process of preparing the evidence base for NET would cast doubt in the mind of the Inspector as to the soundness of the LPR.

So a more appropriate term would be “rather late [substitution]” for Grazeley.

Paragraph 4.7:

I do not dispute that I personally didn’t want us to vote against the LPR but I was outvoted in my Group. I would have preferred us to have abstained. My statement wasn’t cleared with the Group Leader as it should have been. This led us open to criticism which was deserved. However we did expect there to be a further opportunity to make comments after the Regulation 19 responses had been assessed. The motion presented to Full Council explicitly denied Council any chance to debate the LPR again, which was why I decided to vote with my colleagues against it.

Paragraph 4.10:

My email in May 2023 was expressing my privately held opinion at that time. It was the opening statement by myself as the appropriate Executive Member to my colleagues. It was not at that time the agreed political stance of the Lib Dem Executive, nor was it a “discussion paper” – for which I do not know of any definition. It was a private email shared initially only with a very limited number of people and clearly not intended for political opponents to see.

9. CONCLUSION

- 9.1 I did not consider it necessary to amend the draft report otherwise than by the insertion of Cllr Vickers' comments as above or to change my draft conclusion.
- 9.2 I am satisfied that regardless of the inadvertence of the disclosure of the contents of Cllr Vickers' email, its contents were, were intended to be, and should have remained confidential. Cllr Mackinnon demonstrated by his response to the first transmission that he knew this very well.
- 9.3 He should not have disclosed what Cllr Vickers said and in doing so breached the obligations as to confidentiality enshrined in the WBC Code of Conduct.

Richard Lingard
22 May 2024

CLLR VICKERS' COMPLAINT

Cllr Ross Mackinnon was in breach of the Members Code of Conduct as per Appendix K to Part 13 of the Council Constitution (paragraph 4.2[c]) in that he did, during the live recorded Extraordinary Council meeting debate on the Withdrawal of the Local Plan Review on 19th December 2023 and in the Newbury Weekly News online publication of that week, disclose information acquired by him which he had admitted he knew was of a confidential nature. I have been told that he also shared extracts from it on social media.

The key aspect of the recording is at 47 minutes and 20 seconds into the Extraordinary Full Council on 19th December 2023. This is where Cllr Mackinnon quotes phrases from my “Notes and Local Plan discussion” email of 26th May 2023.

On 26th May 2023, which was the day after the Liberal Democrat Executive was appointed during the Annual Council Meeting, I sent an email to “All Members Executive” on the West Berkshire Council system giving my thoughts, as Executive Member for Planning, on the very subject that was to be debated on 19th December. Because the Council had not yet updated the email address for All Members Executive, that highly sensitive email went to the [now] Shadow Executive Members led by Cllr Mackinnon. Although he immediately reported the fact to me and I in turn reported it to the Acting Head of Paid Service Clare Lawrence (Executive Director Place) and asked for this error to be corrected, unbeknown to me – because I do not fully understand how the Council email lists work – when on 31st May I used the same email ‘chain’ to check that, as Ms Lawrence had assured me, the list was now using the Liberal Democrat Executive Members’ addresses, the email again went to the Opposition Shadow Executive.

Cllr Mackinnon had on 26th May told me that he would ensure the email was deleted, which I do not doubt happened. However he did not tell me that the email had been sent to him and his colleagues a second time on 31st May. In the Extraordinary Full Council meeting on 19th December, he admitted that he did not delete it (this can be viewed in the recording at exactly 1 hour in).

Despite knowing that its contents were sensitive, he chose to retain it for use in what I suggest was probably an unlawful way and was also in contradiction to the Members Code of Conduct.

He has not since apologised and therefore I feel justified in making this official Complaint.

CLLR MACKINNON'S INITIAL RESPONSE TO THE COMPLAINT

Response to Complaint NDC01/24

The email communications as described by Cllr Vickers are correct. He is also correct that I disclosed the contents of the emails during the Extraordinary Council meeting, and to the press and on social media.

However, the content disclosed does not meet the Council's own definition of confidential or exempt information. The content was the Liberal Democrat Executive Member for Planning giving his analysis of policy options on how to proceed with the Local Plan Review.

It contained no information about individuals, their financial affairs, contract negotiations or matters subject to legal privilege. There was a wide distribution list including Executive members and senior officers.

There was a clear public interest in the disclosure of the information, showing as it did Cllr Vickers' privately-held negative opinion on the policy he proposed at the Extraordinary Council meeting.

That said, if Cllr Vickers wishes to pursue this complaint, I would be more than happy for the matter to be debated publicly at a meeting of the Governance Committee, where Cllr Vickers can explain why he thinks the public should not be aware of his and his colleagues' true opinion on the policy they proposed.

Cllr Ross Mackinnon

14th January 2024

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Written Decision of West Berkshire Council's Advisory Panel

Date of the Advisory Panel:	25 June 2024
Reference Number:	NDC01/24
Member who this Decision relates to:	Councillor Ross Mackinnon
Person who made the original allegation:	Councillor Tony Vickers
Authority:	West Berkshire Council
Chair of the Advisory Panel:	Mike Wall (Independent Person)
Other Members of the Advisory Panel:	Lindsey Appleton (Independent Person), Councillors Jane Langford, David Marsh and Geoff Mayes
Apologies:	Councillors Carlyne Culver and Joanne Stewart
Declarations of Interest:	Councillor Langford declared a personal interest in the item by virtue of the fact that the Subject Member was her political group Leader (Conservative Group). As her interest was personal and not prejudicial she was permitted to take part in the debate.
Monitoring Officer:	Nicola Thomas (Deputy)
Investigator:	Richard Lingard
Clerk of the Advisory Panel:	Stephen Chard
Date Decision Issued:	4 July 2024

Summary of the Original Complaint

It was alleged that:

- Councillor Mackinnon disclosed information he had received in error via e-mail, that was of a confidential/sensitive nature, at the Extraordinary Council meeting of 19 December 2023, to the press and on social media.
- Councillor Mackinnon received the information twice. On 26 May 2023, he highlighted to Councillor Vickers that he had received the e-mail in error and that he would delete it. Councillor Mackinnon also received the e-mail on 31 May 2023 but did not communicate the fact or give any agreement to delete it.
- Councillor Mackinnon contests that the information received was not of a confidential or exempt nature. He acknowledges that he did share the information as described. Councillor Mackinnon felt there was a clear public interest in the disclosure of the information.

Outcome of the Initial Assessment

The complaint which was received on the 2 January 2024 was initially assessed on 25 January 2024 by the Deputy Monitoring Officer and Independent Person (Alan Penrith) of West Berkshire Council.

In considering the complaint the Deputy Monitoring Officer in consultation with the Independent Person had regard to the Council's Code of Conduct, the information submitted by the Complainant, and the response submitted by the Subject Member.

They concluded that in this case a public apology would be requested from the Subject Member to the Complainant at the Extraordinary Council meeting on 20 February 2024, and in writing.

However, as the apology was not forthcoming, the matter has been fully investigated by an independent investigator.

Conclusion of the Independent Investigator

Mr Richard Lingard was appointed to undertake the investigation on behalf of the Monitoring Officer. He considered the same information made available at the Initial Assessment stage and interviewed the following people as part of the investigation:

- Councillor Tony Vickers (Complainant)
- Councillor Ross Mackinnon (Subject Member)

Mr Lingard's draft report was shared with the Subject Member and the Complainant, and further comments were invited. These comments were incorporated into the final report.

In summary, Mr Lingard's findings are as follows:

He is satisfied that regardless of the inadvertence of the disclosure of the contents of Cllr Vickers' email, its contents were, were intended to be, and should have remained confidential. Cllr Mackinnon demonstrated by his response to the first transmission that he knew this very well.

Cllr Mackinnon should not have disclosed what Cllr Vickers said and in doing so breached the obligations as to confidentiality enshrined in the West Berkshire Council Code of Conduct.

Decision of the Advisory Panel

A summary of the Advisory Panel's discussions is provided below to aid the Governance Committee's deliberations:

The majority of the Panel concurred with the findings of the Investigator that there had been a breach of the West Berkshire Council Code of Conduct. There was one abstention from the vote.

The majority of the Panel considered that the Subject Member released the information with the knowledge that it would be damaging to the Complainant and used it to gain an unfair advantage.

A Panel member held the view that the information in the e-mails was not clearly confidential. It was not marked as such and was not a Part II report. Additionally, the e-mail had been sent in error on two occasions.

The Panel did not identify any areas of the Investigator's report that required further clarification.

The Advisory Panel recommended that the following people be invited to attend the Governance and Ethics Committee where the matter will be determined:

1. Investigator
2. Complainant
3. Subject Member
4. Monitoring Officer

The Advisory Panel did not make any recommendations of sanctions should the Governance Committee concur with the finding that a breach of the Code of Conduct has occurred.

Right to Appeal

Under the revised Localism Act 2011 there is no appeals mechanism in place. Parties may challenge the decision by way of Judicial Review in the High Court. Parties are advised to seek independent legal advice prior to pursuing this option.

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