

Hearing Review Panel



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Friday, 17 January 2025 at 2.00 pm
Witham Room - South Kesteven House,
St. Peter's Hill, Grantham. NG31 6PZ

Panel Members: Councillor Pam Byrd
Councillor Chris Noon
Councillor Peter Stephens
Councillor Sarah Trotter

Agenda

1. **Introductions**
2. **Election of Chairman**
The Panel to elect a Chairman for the Hearing.
3. **Declarations of Interests**
4. **To consider any requests for the exclusion of the Press and Public**
5. **Councillor Code of Conduct Hearing – Councillor Penny Milnes v Councillor Steven Cunnington** (Pages 3 - 66)

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Friday, 17 January 2025

Report of Graham Watts, Monitoring
Officer

Councillor Code of Conduct Hearing Councillor Penny Milnes v Councillor Steven Cunnington

Report Author

Graham Watts, Assistant Director (Governance and Public Protection) and Monitoring Officer

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Purpose of Report

This report provides the Hearing Review Panel with information relating to a complaint against Councillor Steven Cunnington which is the subject of a Hearing, in accordance with the Council's procedure for dealing with complaints against Councillors.

Information within the report has been redacted because of the likelihood information that is exempt under paragraph 1 of Schedule 12A of the Local Government Act 1972 (as amended) will be disclosed and is considered not to have passed the public interest test. This is due to contents including personal information not relevant to the case under consideration or personal information relating to other third parties. The press and public may be excluded from the meeting should any of this redacted information be referenced or relied upon as part of proceedings.

Recommendations

That the Hearing Review Panel:

- 1. Determines whether or not a breach of the Councillor Code of Conduct has occurred.**

2. Determines what sanctions to impose, if any, should a breach of the Councillor Code of Conduct have occurred.

Decision Information

Does the report contain any exempt or confidential information not for publication?	Yes
What are the relevant corporate priorities?	Effective council
Which wards are impacted?	Not applicable

1. Background to the Report

- 1.1 The Council has a procedure in place for dealing with complaints against Councillors, which is included as part of the Council's Constitution at Part 5 (Codes and Protocols).
- 1.2 Any complaint received by the Council regarding the conduct of its Councillors will be dealt with in accordance with this procedure.
- 1.3 The complaint scheduled for consideration at this Hearing was submitted by Councillor Penny Milnes against Councillor Steven Cunnington.
- 1.4 In accordance with the Council's procedure, the complaint was referred for formal investigation.
- 1.5 Wilkin Chapman LLP were appointed by the Monitoring Officer to conduct the formal investigation relating to this complaint.
- 1.6 The Investigating Officer has found that Councillor Steven Cunnington acted in breach of the Councillor Code of Conduct in terms of treating others with respect and failing to co-operate with a Code of Conduct investigation.
- 1.7 The Monitoring Officer determined, in consultation with the Council's Independent Persons, that this finding be referred to a Hearing and that this would be heard by a Hearing Review Panel.

2. Key Considerations

- 2.1 The final report from the Investigating Officer at Wilkin Chapman LLP is attached to this covering report for the Hearing Review Panel's consideration at **Appendix A**. This is supported by a schedule of evidence document which is attached at **Appendix B**.

- 2.2 As stated under the 'purpose of report' section of this covering report, there are a number of redactions in the Investigating Officer's report and schedule of evidence. This is due to the fact that these do not relate to the specific matter that has been referred to the Hearing Review Panel or contain personal information relating to other third parties.
- 2.4 The procedure to be followed for this Hearing is outlined in the Council's procedure for dealing with complaints against Councillors. This is set out in **Appendix C** of this report.

3. Appendices

Appendix A – Investigating Officer's report
Appendix B – Schedule of evidence
Appendix C – Procedure for Hearing

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Report of an investigation by Wilkin Chapman LLP, appointed by the Monitoring Officer for South Kesteven District Council, into allegations concerning Councillor Steven Cunnington.

5 November 2024

VOLUME 1 REPORT

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Appendix A Schedule of evidence taken into account and list of unused material

1. Executive Summary

- 1.1 The Subject Member, Councillor Steven Cunnington, is a member of South Kesteven District Council ("the Council"). He represents the Earlesfield ward.
- 1.2 The Complainant, Councillor Penny Milnes, is also a member of the Council.
- 1.3 Councillor Milnes submitted a complaint against Councillor Cunnington alleging that he had not adhered to the Nolan principles and had been disrespectful.
- 1.4 In August 2023, the Committee for Standards in Public Life (CSPL) responded to a Freedom of Information (FOI) request. The request asked for the process by which someone could raise a complaint that a government department or other public body had breached the Nolan Principles.
- 1.5 In response to the FOI, the CSPL stated that they held no information in the scope of the request because:

"the Seven Principles of Public Life are intended to be high level statements and there is no formal mechanism for holding people to account under those principles. The Principles are not a rulebook. They are a guide to institutional administration and personal conduct. It is organisations' codes of conduct against which complaints may be made so if you wish to hold an individual to account or make a complaint about an individual's behaviour, this would be done against the relevant organisation's code of conduct."

- 1.6 This statement from the CSPL means that, although the Nolan Principles underpin the Code of Conduct, a claim cannot be made that a councillor is in breach of the Nolan Principles. A claim of breach must be related to the behaviours listed in the Code of Conduct. Therefore, we have considered the issues of disrespect and disrepute.
- 1.7 Following investigation, we have concluded that Councillor Cunnington:
 - failed to treat Councillor Green with respect;
 - did not bring the role of councillor and/or the Council into disrepute; and
 - failed to cooperate with a Code of Conduct investigation.

2. Councillor Cunnington's Official Details

2.1 Councillor Cunnington was first elected to the Council on 9 May 2023. He is a member of the Grantham Independent group representing Earlesfield ward. He is a member of the alliance of independent members and groups which is the Administration of the Council.

2.2 At the time of alleged conduct, Councillor Cunnington sat on the following committees:

- Alcohol, Entertainment & Late Night Refreshment Licensing;
- Budget – Joint Overview and Scrutiny;
- Community Governance Review Working Group;
- Environment Overview and Scrutiny;
- Licensing; and
- Rural and Communities Overview and Scrutiny (Vice Chairman).

2.3 Since his election, Councillor Cunnington has not attended Code of Conduct training. In 2024, he has completed the following training:

- 17/06/2024 – Equalities, Diversity & Inclusion;
- 10/06/2024 – Safeguarding;
- 20/05/2024 – Licensing Committee Annual Refresh Training.

3. Relevant Legislation and Protocols

- 3.1 Section 27 of the Localism Act 2011 (“the Act”) provides that a relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority. In discharging this duty, the authority must adopt a code dealing with the conduct that is expected of members when they are acting in that capacity.
- 3.2 Under section 28(6) of the Act, principal authorities (which includes district councils) must have in place (a) arrangements under which allegations can be investigated; and (b) arrangements under which decisions on allegations can be made.
- 3.3 Under section 28(7), arrangements put in place under section 28(6)(b) must include provision for the appointment by the authority of at least one Independent Person (“IP”) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.
- 3.4 Section 28(11) of the Act provides that if a relevant authority finds that a member or a co-opted member of the authority has failed to comply with its code of conduct it may have regard to the failure in deciding (a) whether to take action in relation to the member or co-opted member and (b) what action to take.
- 3.5 The Council has adopted a Code of Conduct (“the Code”) (attached at WC 1) which includes the following:

“General Conduct

1. Respect

As a Councillor:

1.1 I treat other Councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas and opinions and policies in a robust but civil manner.

You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public’s expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider, or the Police. This also applies to fellow Councillors, where action could then be taken under the Members’ Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority’s councillor officer protocol.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

8. Complying with the Code of Conduct

As a Councillor:

...

8.2 I cooperate with any Code of Conduct investigation and/or determination

...

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer."

3.6 We have also considered other relevant legislation as follows:

Freedom of Expression and Article 10 of the European Convention on Human Rights 1998

3.7 Article 10 of the European Convention on Human Rights (Article 10 ECHR) states:

- *Art 10(1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by a public authority...*
- *Art 10(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and necessary in a democratic society...*

- 3.8 Article 10 ECHR has been enshrined in UK domestic law by Section 1 of the Human Rights Act 1998 (HRA 1998) and Section 3 of the HRA 1998 states that the Act must be interpreted as far as possible so that it is in line with Article 10 ECHR.

4. Background and Evidence

Our appointment

- 4.1 The Council's arrangements for dealing with code of conduct complaints provide that Monitoring Officer ("MO"), in consultation with the appointed IP, shall decide whether or not to investigate a complaint.
- 4.2 On 20 May 2024, having consulted with two IPs, the MO issued his Decision Notice in respect of the complaint. The Decision Notice confirmed the MO's decision to refer the complaint for investigation. The complaint is attached at WC 2 and the Decision Notice is attached at WC 3.
- 4.3 On 28 May 2024, the MO instructed Wilkin Chapman LLP to conduct an investigation into the complaint.
- 4.4 Wilkin Chapman LLP is a solicitors' firm based in Lincolnshire and East Yorkshire with a national local government legal practice. Work in relation to this investigation was undertaken by Estelle Culligan, Gill Thompson, and Emily Briggs.

The investigation

- 4.5 During the investigation we undertook formal interviews with:
 - Councillor Milnes (the Complainant); and
 - Councillor Green (witness).
- 4.6 We obtained signed statements from Councillor Milnes (attached at WC 4) and Councillor Green (attached at WC 5).
- 4.7 Despite writing to Councillor Cunningham on 18 June, 3 July and 17 July 2024 he has not responded to our correspondence. Copies of our correspondence are attached at WC 6.
- 4.8 The MO wrote to Councillor Cunningham on 1 August 2024 asking that he contact the investigators and reminding him that a lack of cooperation with the investigation could also be a breach of the Code of Conduct. This email is attached at WC 7.
- 4.9 Copies of the above, together with other relevant documents are annexed to this report.
- 4.10 We wish to record our thanks for the co-operation and courtesy shown to us by Councillor Milnes and Councillor Green. We regret that Councillor Cunningham did not engage in the investigation.

The Complaint

- 4.11 Councillor Penny Milnes is a South Kesteven Independent councillor, forming part of the South Kesteven Coalition Group. She represents the Loveden Heath ward. She was first elected on 2 May 2019. The South Kesteven Coalition Group are in opposition.
- 4.12 On 1 May 2024 Councillor Green posted on Facebook a link to a Lincsoline article which contained a picture of Councillor Patsy Ellis. Councillor Green wrote:

“Former portfolio holder for bins at SKDC, Cllr Patsy Ellis, has left the Cabinet and the Green Party. Did she jump before she was binned? 😊”

- 4.13 Councillor [REDACTED] shared the original post by Councillor Green to his own Councillor facebook page and commented. In the chain of comments underneath his shared post, including a comment from Councillor [REDACTED], Councillor Cunningham responded to that comment, as follows:

“Vile disrespectful insensitive scum !!”

- 4.14 Councillor Milnes submitted her complaint on 8 May 2024. In her complaint, Councillor Milnes stated:

“I would like to make a Code of Conduct complaint against Cllr Steve Cunningham.

*Please see the attached social media post where Cllr Cunningham describes Cllr Green as “Vile disrespectful insensitive **scum** !!”*

I see this as a clear breach of the council code of conduct, showing a lack of respect and the not adhering to the Nolan principles.

This is not the kind of language we should be using to describe each other; criticize but not in those terms.”

- 4.15 Councillor Milnes was not certain that the phrase was aimed solely at Councillor Green, or at the Conservative group in general. She stated:

I don’t think it is just about Councillor Green. The way Councillor [REDACTED]’s post is written there seems to be a wider aspersion that this is to all Conservatives, but it was brought on by Councillor Green’s social media post.

- 4.16 This incident was referred for investigation by the MO. Councillor Green’s original post shared to Councillor [REDACTED]’s page is at WC 8. The Facebook comments, including Councillor Cunningham’s comment, are at WC 2.

Councillor Cunningham

- 4.17 We initially wrote to Councillor Cunningham on 18 June 2024 seeking his availability to speak with us. Councillor Cunningham did not respond.
- 4.18 We then wrote to him again on 3 July and 17 July 2024. Again, Councillor Cunningham did not respond to us.
- 4.19 The MO wrote to Councillor Cunningham on 1 August 2024 asking him to contact investigators. However, at the time of preparing this report, we have not been contacted by Councillor Cunningham.

5. Councillor Milnes and Councillor Cunningham's Additional Submissions

- 5.1 The following comments were received from Councillor Milnes on the draft version of this report:

*"Thank you for sight of the Draft Report which I have viewed.
This is very thorough and on first reading it I have no further comments to make.*

*Many thanks,
Penny"*

- 5.2 No comments were received from Councillor Cunningham on the draft version of this report.

6. Reasoning As To Whether There Have Been Failures To Comply With The Code Of Conduct

- 6.1 The relevant sections of the Code and of the relevant protocols which must be considered are set out in Section 3 above.

Capacity

- 6.2 Section 27(2) of the Localism Act 2011 requires the Authority to adopt a Code of Conduct dealing with the conduct that is expected of members of the Council “when they are acting in that capacity”.
- 6.3 The Council’s Code of Conduct reflects the requirement of Section 27(2) of the Localism Act.
- 6.4 The Council’s Code is expressed to apply whenever a member is acting in their capacity as a Councillor. We therefore first have to consider whether Councillor Green was acting in an official capacity at the time of the alleged incidents.
- 6.5 The Local Government Association Guidance on the Model Code of Conduct (“the LGA Guidance”) states that:

“The Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- *You misuse your position as a councillor*
- *Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.*

This means it applies when you are carrying out your official duties, for example when you are considering or discussing local authority business, either as a councillor or representing the local authority on an outside body.

...

The code does not, therefore, apply solely when you are in local authority meetings or on local authority premises.

The code applies to all forms of communication and interaction, including:

- *At face-to-face meetings*
- *At online or telephone meetings*
- *In written communication*
- *In verbal communication*
- *In non-verbal communications*
- *In electronic and social media communication, posts, statements, and comments.*

The includes interactions with the public as well as with fellow councillors and local authority officers.”

- 6.6 Councillor Cunningham’s Facebook page is under the name “Cllr Steven Cunningham Earlesfield”. The introduction reads “SKDC Councillor.”

- 6.7 It is clear from the LGA Guidance that this alone does not mean that Councillor Cunningham was acting in his capacity when commenting on Facebook:

“Simply describing yourself as a councillor in a social media posting or at the top of your page or in your username or profile, for example, does not of itself mean that every posting you make is covered by the Code. There must be a link within the individual posting or thread to your role as a councillor or to local authority business.”

- 6.8 However, Councillor Cunningham’s comment relates to a Facebook post by Councillor Green shared to Councillor [REDACTED]’s councillor Facebook page, which related to Council business.

- 6.9 Our view is therefore that Councillor Cunningham was acting in an official capacity and was subject to the Code of Conduct.

Respect

- 6.10 The definition of Respect in the Code is set out above in paragraph 3.5. We have considered the Local Government Association Guidance (LGA Guidance) and relevant case law below.

- 6.11 When describing ‘Disrespectful Behaviour’ the LGA Guidance states:

“Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurs, who observes the behaviour, the character and relationship of the people involved and the behaviour of anyone who prompts the alleged disrespect.”

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

Disrespectful behaviour can be harmful to both you and to others. It can lower the public’s expectations and confidence in you and your local authority and councillors and politicians more generally. It influences the willingness of fellow councillors, officers, and the public to speak up or interact with you because they expect the encounter will be unpleasant or uncomfortable. Ongoing disrespectful behaviour can undermine willingness of officers to give frank advice, damage morale at a local authority, and ultimately create a toxic culture and has been associated with instances of governance failure.”

- 6.12 The requirement to treat others with respect must be viewed objectively. Account should be taken of the member’s intent and how their behaviour would reasonably be perceived.

- 6.13 In *Boughton, Dartmouth Town Council* (2009) APE 0419 at paragraph 3.3.6, the Tribunal described a failure to treat with respect as follows:

“A failure to treat others with respect will occur when unfair, unreasonable or demeaning behaviour is directed by one person against another. The circumstances in which the behaviour including the place, who observed it, the character and relationship of the people involved will all be relevant in assessing whether the behaviour was disrespectful.”

- 6.14 In *Buchanan, Somerset County Council* (2009) APE 0409, in relation to a complaint made by a chief executive, the Tribunal said at paragraph 51:

“In the Tribunal’s view it was desirable that the threshold for a failure to treat another with respect be set at a level that allowed for the minor annoyances and on occasions bad manners which are part of life. During the course of their work people often show a lack of consideration or bad manners but it is not desirable that every such slight should be considered a breach of the Code. To set too low a level might lead to complaints that were about little other than a difference of opinion over the wording of a letter or what amounts to rudeness and for this reason the Tribunal thinks that not every instance of bad manners or insensitive comment should amount to a failure to treat another with respect.”

- 6.15 The key elements of finding a failure to treat others with respect are that the conduct is unreasonable or demeaning and directed by one person against another.

- 6.16 The LGA Guidance states that disrespectful behaviour is *“when unreasonable or demeaning behaviour is directed by one person against or about another.”*

- 6.17 The Oxford dictionary definition of ‘unreasonable’ is:

“beyond the limits of acceptability or fairness”

- 6.18 The Oxford dictionary meaning of ‘demeaning’ is:

“causing someone to lose their dignity and the respect of others.”

Freedom of Speech and the right to enhanced protection in freedom of speech within political comment - Article 10 European Convention on Human Rights

- 6.19 It is important to have regard to the right to freedom of speech as set out in Article 10 of the European Convention on Human Rights (Article 10 ECHR) above.

- 6.20 A number of European court cases have established not only the right to free speech but also an enhanced level afforded to freedom of speech in a political context, and that any interference with that freedom should be carefully scrutinised.

- 6.21 The case of *Heesom v Public Services Ombudsman for Wales* [2014] EWHC 1504, held that:

- Article 10 of ECHR protects not only the substance of political comment but the form in which it is conveyed;
- a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, non-rational and aggressive is to be tolerated;

- political comment includes comment on public administration and the adequacy of the performance of public duties by others, but not gratuitous personal comments;

6.22 The case of *Jerusalem v Austria* (2003) 37 EHHR 25 held that:

“In this respect the court recalls that while freedom of expression is important for everybody, it is especially so for an elected representative of the people. He or she represents the electorate, draws attention to its pre-occupations and defends its interests. Accordingly, interference with the freedom of expression of an opposition member of parliament, like the applicant, call for the closest scrutiny on the part of the court.”

6.23 In *Sanders v Kingston (No.1)* [2005] EWHC 1145 (Admin) the original tribunal held that, in the Leader of Peterborough Council’s responses to a letter circulated by Carrickfergus Council to other councils in the UK asking for support on a particular issue relating to the personal tragedy of soldiers’ suicides, his comments and other comments made publicly, amounted to personal abuse.

6.24 In summary, the facts were that the leader wrote a response on a letter passed to him by the Chief Executive, in response to a request made by Carrickfergus Council.

6.25 Councillor Sanders wrote a handwritten note on a copy of the letter and returned it to the Carrickfergus Chief Executive as follows:

“Members of the Armed Forces DO get killed be it accident or design — THAT is what they are paid for.”

6.26 He then signed the comment and identified himself as Leader.

6.27 There were further exchanges between the Leader of Carrickfergus Council and Councillor Sanders, the matter was leaked to the press and Councillor Sanders continued to make highly offensive comments. Councillor Sanders also used aggressive and rude language in various conversations with journalists covering the story.

6.28 During the investigation into the subsequent Standards complaint against Councillor Sanders, he claimed that Article 10 was engaged and that he was exercising his right to free speech.

6.29 The Standards Board for England found that Councillor Sanders had breached the Code of Conduct both in his written comments and in his conversations with journalists.

6.30 In Councillor Sanders’ appeal, the judge stated that, on the issue of freedom of speech, there were three questions to answer:

- “1. Was the Case Tribunal entitled as a matter of fact to conclude that Councillor Sanders’ conduct was in breach of the Code of Conduct ?
2. If so, was the finding in itself or the imposition of a sanction *prima facie* a breach of Article 10 ?
3. If so, was the restriction involved one which was justified by reason of the requirements of Article 10(2) ?

- 6.31 The appeal held that, on the first point, the Standards Board were entitled to conclude that Councillor Sanders was in breach. The tone and disrespectful nature of his comments on the letter and subsequently and in interviews with journalists was not what would be expected of a council leader. The court held also that, on the second point, Article 10 was engaged because of the issues of free speech, but Councillor Sanders' comments were not expressions of political opinions that attracted the higher protection afforded by article 10. They were simply expressions of personal anger and abuse.
- 6.32 On the final point, the court considered whether the restrictions imposed on Councillor Sanders were justified under Article 10 (2) – i.e. *necessary in a democratic society for the protection of the rights of others*. The court held that the adoption of a Code of Conduct was required by law and ensured a minimum set of standards in councillors' conduct. Councillor Sanders had signed up to the council's Code of Conduct and, as his actions and words were not held to be expressions of political opinion, the interference in his right to freedom of speech, by the finding of the Standards Board that he was in breach, was justified under Article 10(2).
- 6.33 The three part test was applied in the case of (*Calver*) v *Adjudication Panel for Wales* (2013). This was a judicial review case in which a councillor sought judicial review of the decision of a county council's standards committee which found that comments he made about the community council and its members on the internet failed to comply with paragraphs 2(b) and 4 of the Code of Conduct by, respectively, not treating others with respect, and bringing the community council into disrepute.
- 6.34 The court adopted the three questions identified in *Sanders v Kingston* and found that the committee and the panel were entitled to conclude that the councillor's comments breached the Code of Conduct.
- 6.35 In answering the second and third questions, the court concluded that the panel's decision that the councillor's comments were in breach of the Code of Conduct was a disproportionate interference with his rights under Article 10.
- 6.36 The approach was also adopted in the recent case of *R (on the application of Clive Robinson) v Buckinghamshire Council* (2021), when the court held that a finding by a local authority monitoring officer that a parish councillor had breached a code of conduct by making statements about the motivations, intentions and integrity of the other councillors at a public meeting to discuss green belt development had been an interference with his right to freedom of expression under ECHR Art.10. His statements attracted the enhanced protection afforded to political speech and debate, and the interference was not proportionate to the aim of protecting the reputation of the other councillors.
- 6.37 Councillor Green put a post on social media on 1 May 2024 which was subsequently shared by Councillor [REDACTED]
- 6.38 Councillor Green's post contained a link to a Lincsonline article, a picture of Councillor Patsy Ellis and the words, "*Former portfolio holder for bins at SKDC, Cllr Patsy Ellis, has left the Cabinet and the Green Party. Did she jump before she was binned?* 🤔"
- 6.39 When Councillor [REDACTED] shared Councillor Green's post, in a chain of comments underneath, including from members of the public and Councillor [REDACTED] himself, Councillor Cunningham commented:

"Vile disrespectful insensitive scum !!"

6.40 In her statement, Councillor Milnes stated:

“Councillor Ben Green is quite well known for his sense of humour. At the time of Councillor Green’s social media post we were having trouble with the bins. There are still issues around the bins. Councillor Green’s post referred to the Cabinet Member for waste stepping down from her Cabinet role and from her Group on the Council. This post triggered all the nastiness.

...

This complaint is about a comment from Councillor Cunningham on a post by Councillor [REDACTED], replying to a post from Councillor Green. Councillor [REDACTED] made claims against Councillor Green after he posted a Grantham Journal news article on his Facebook feed that reported that Councillor Ellis had resigned from Cabinet at 8pm on a Friday night after months of chaos in her portfolio. Councillor Green asked, “did she resign or was she binned?” – a question many of us had.

...

My view is that you do not respond to a social media post with totally unacceptable language ... The public are listening and watching, inciting other people to respond in a more toxic way. Though the issue was obviously political, it has a knock-on effect.

...

When the toxic and awful comments are made in public, I think it is a real problem. I don’t think Councillor Cunningham has tried to apologise or delete the post or to be supportive of an informal resolution.”

6.41 In his statement, Councillor Green stated:

First and foremost, it is about putting across a counter narrative. There is an expectation from the public that we hold the administration to account. It is important for democracy for rival opinions to be put across. It is something I feel my residents would expect me to do. I don’t believe they would feel I was doing a good job if I did not hold the administration to account.

I believe this comment fits the grounds of incitement and falls far outside the boundaries of robust political debate. The language and terminology were dehumanising, particularly the words ‘vile’ and ‘scum’. Such language is unbecoming of a councillor.

When I saw Councillor Cunningham’s social media comment I was gravely distressed by the use of base language, particularly the words ‘vile’ and ‘scum’. Such comments are likely to stir up strong negative public opinion against me. Such characterisations are wildly off-base, hyperbolic and inaccurate.”

6.42 Councillor Cunningham has not responded to our correspondence. Therefore, he has not been interviewed and we have not been able to speak with him about the complaint.

6.43 We have considered the three stage test set out in *Sanders v Kingston*:

1 - Is the conduct a breach of the Code of Conduct?

- 6.44 We consider that quite obviously the comment is disrespectful. Even if the comment is also aimed more generally at the Conservative group, it is made beneath Councillor [REDACTED]'s post and is obviously also about Councillor Green. Calling someone "vile disrespectful scum" is clearly quite offensive. It is also clear that Councillor Green was quite shocked by the comment, even considering the robust nature of the exchanges between members of the different groups.

2 - Are the findings in themselves or the imposition of a sanction prima facie a breach of Article 10 ?

- 6.45 Article 10 is clearly engaged, as these matters involve issues of freedom of expression.

- 6.46 The case of *Patrick Heesom v The Public Services Ombudsman for Wales v the Welsh Ministers* (2014) states, in the context of political commentary:

"a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, non-rational and aggressive is to be tolerated..."

- 6.47 However, we also take into account the guidance in *Sanders v Kingston*, where the Leader of Peterborough Council's comments were held to fall outside of the realm of political commentary and to be simply personal abuse. There were not found to attract the enhanced degree of protection afforded to political commentary. Councillor Cunningham's comment was posted on Facebook in response to a post by Councillor Green which Councillor [REDACTED] shared to his own page. This could be seen by a wide audience. It is clear that Councillor Cunningham is commenting on a post relating to Council business – Councillor Green's commentary on Councillor Ellis' departure from her Cabinet role. Councillor Cunningham, like others in his group, is upset by Councillor Green's clear mocking and sarcastic comment about the reasons for Councillor Ellis leaving her role. However, we consider that Councillor Cunningham could have expressed his dislike at Councillor Green's Facebook post without using such offensive and belittling language, which reads as simply personally abusive.

- 6.48 The LGA Guidance states that disrespectful behaviour is *"when unreasonable or demeaning behaviour is directed by one person against or about another."*

- 6.49 The Oxford dictionary definition of 'unreasonable' is:

"beyond the limits of acceptability or fairness"

- 6.50 The Oxford dictionary meaning of 'demeaning' is:

"causing someone to lose their dignity and the respect of others."

- 6.51 We consider that Councillor Cunningham's comment is gratuitously offensive towards Councillor Green and possibly others, and therefore falls outside the enhanced protection of political freedom of expression.

3 - If so, was the restriction involved one which was justified by reason of the requirements of Article 10(2)?

6.52 The restriction in this case would be a finding of breach under the Code of Conduct. As we have found that Councillor Cunningham's comment is simply gratuitous abuse, it does not benefit from the enhanced protection of political freedom of expression. This follows the finding in *Sanders v Kingston* in which the judge held that Councillor Sanders' comments were not expressions of political opinions that attracted the higher protection afforded by article 10. They were simply expressions of personal anger and abuse. We find similarly in the case of Councillor Cunningham's comments. His comments are disrespectful under the Code of Conduct. The Code of Conduct is a lawful restriction under the Localism Act 2011 and Councillor Cunningham signed up to abide by that Code of Conduct when he was elected as Councillor. Therefore, our finding of a breach of paragraph 1 (Respect) of the Code of Conduct is justified in the circumstances.

Disrepute

6.53 We have also considered whether Councillor Cunningham's comment amounts to bringing his office or the Council into disrepute.

6.54 The definition of Disrepute in the Code is set out above in paragraph 3.5. The LGA Guidance states:

"As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. Article 10 of the European Convention on Human Rights protects your right to freedom of expression, and political speech as a councillor is given enhanced protection but this right is not unrestricted. You should be aware that your actions might have an adverse impact on your role, other councillors and/or your local authority and may lower the public's confidence in your ability to discharge your functions as a councillor or your local authority's ability to discharge its functions."

In general terms, disrepute can be defined as a lack of good reputation or respectability. In the context of the Code of Conduct, a councillor's behaviour in office will bring their role into disrepute if the conduct could reasonably be regarded as either:

- 1. reducing the public's confidence in them being able to fulfil their role; or*
- 2. adversely affecting the reputation of your authority's councillors, in being able to fulfil their role.*

Conduct by a councillor which could reasonably be regarded as reducing the public confidence in their local authority being able to fulfil its functions and duties will bring the authority into disrepute."

6.55 In applying the Code to the circumstances of an alleged breach of disrepute, it is established that it is not necessary for the member's actions to have actually diminished the public confidence or harmed the reputation of the authority. The test is whether or not the conduct could 'reasonably be regarded' as having these effects. However, the conduct must be sufficient to damage the reputation of the member's office of the Council, not just the reputation of Councillor Cunningham as an individual.

- 6.56 We must consider an objective view, i.e. whether Councillor Cunningham's comment is such that a member of the public, knowing all the relevant facts, would reasonably think that his actions were so significant that it would impact on the Council's ability to properly carry out its functions.
- 6.57 As discussed above, the issue relates to one post by Councillor Green commenting on a press report about Councillor Ellis' departure. It is an emotive subject, both for Councillor Green, who is critical of her role as Cabinet member, and for Councillor Cunningham and his colleagues, who are aware of other, more personal reasons for Councillor Ellis' departure. The comment is not a main post but is contained within a chain of comments underneath Councillor [REDACTED]'s sharing of Councillor Green's post. The other comments are by members of the public and Councillor [REDACTED].
- 6.58 In addition, although the phrase is personally abusive and not how the public would expect members to address each other, it is not the most egregious of terms to use. Councillor Milnes also thought that, because of how the comment appeared among the other comments, it might have been aimed more generally at the Conservative group. It is also clear from the chain of comments that many members of the public were supportive both of Councillor Ellis and of Councillor Cunningham's strong support for her.
- 6.59 We therefore do not consider Councillor Cunningham's conduct would adversely affect the reputation of the Council in being able to fulfil its functions and duties. Neither do we consider that Councillor Cunningham's conduct was sufficient to damage his role as a councillor.
- 6.60 We have therefore concluded that Councillor Cunningham's conduct did not cause him to breach paragraph 5 (Disrepute) of the Council's Code of Conduct.

Failure to comply with a Code of Conduct investigation

- 6.61 As Councillor Cunningham has not responded to our correspondence or that of the MO, we have considered whether Councillor Cunningham's conduct is a breach of paragraph 8.2 of the Council's Code of Conduct.
- 6.62 The importance of complying with a Code of Conduct investigation is set out above in paragraph 3.5.
- 6.63 The LGA Guidance states:
- "While being the subject of a complaint that you have breached the Code of Conduct and having your conduct investigated may at times be unpleasant and stressful it is essential that councillors cooperate with any code investigations and determinations. Failure to cooperate will not stop an investigation but may simply drag matters and does not allow you to put your side of the story so increases the risk that inferences are drawn about your unwillingness to cooperate and that you will be found in breach of the Code."*
- 6.64 As stated above, we wrote to Councillor Cunningham on 18 June, 3 July and 17 July 2024 but received no response.
- 6.65 The MO then wrote to Councillor Cunningham on 1 August 2024 asking that he contact us and explaining that failure to co-operate with a Code of Conduct investigation could also be considered a breach of the Code of Conduct.

- 6.66 At the time of writing this report we have had no contact from Councillor Cunningham. We have only heard Councillor Milnes and Councillor Green's detailed comments on the issue and have had to make findings on the complaint based on their comments only.
- 6.67 We have concluded that Councillor Cunningham's lack of co-operation in the investigation is a breach of paragraph 8.2 of the Council's Code of Conduct.

7. Conclusion

- 7.1 Our conclusion is that Councillor Cunningham has failed to comply with paragraph 1 (Respect) of the Code of Conduct.
- 7.2 Our conclusion is that Councillor Cunningham has not failed to comply with paragraph 5 (Disrepute) of the Code of Conduct.
- 7.3 In addition, our conclusion is that there has been a failure by Councillor Cunningham to comply with paragraph 8.2 of the Council's Code of Conduct in that he has failed to cooperate with the investigation.

5 November 2024

Wilkin Chapman LLP
Investigating Solicitors



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Report of an investigation by Wilkin Chapman LLP, appointed by the Monitoring Officer for South Kesteven District Council, into allegations concerning Councillor Steve Cunningham.

Dated: 5 November 2024

VOLUME 2 SCHEDULE OF EVIDENCE

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Appendix A

Schedule of evidence taken into account and list of unused material

Page	Number	Description
3	WC 1	Code of Conduct
16	WC 2	Complaint of Councillor Milnes
18	WC 3	Decision Notice
21	WC 4	Statement of Councillor Milnes
25	WC 5	Statement of Councillor Green
29	WC 6	Investigators' correspondence to Councillor Cunningham (18.06.24, 03.07.24 and 17.07.24)
33	WC 7	Email MO to Councillor Cunningham 01.08.24
35	WC 8	Councillor [REDACTED]'s re-share of Councillor Green's post

List of unused material

Investigator's notes, file correspondence and drafts
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SOUTH KESTEVEN DISTRICT COUNCIL COUNCILLOR CODE OF CONDUCT

(Adopted by South Kesteven District Council at Council on 25 November 2021)

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, Local Authority Officers, and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The Local Government Association encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors, and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of Councillor:

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence
- I ensure that public resources are used prudently in accordance with my Local Authority's requirements and in the public interest

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- You misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor

The Code applies to all forms of communication and interaction, including:

- At face-to-face meetings
- At online or telephone meetings
- In written communication
- In verbal communication
- In non-verbal communication
- In electronic and social media communication, posts, statements, and comments

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

- 1.1 I treat other councillors and members of the public with respect.**
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word.

Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions, and policies in a robust but civil manner.

You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider, or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a) **given to me in confidence by anyone**
- b) **acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:**
 - i. **I have received the consent of a person authorised to give it.**
 - ii. **I am required by law to do so.**
 - iii. **The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. **the disclosure is:**
 - 1. **reasonable and in the public interest; and**
 - 2. **made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. **I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer, or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents, and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others.

However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a) act in accordance with the local authority's requirements; and**
- b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- Office support
- Stationery
- Equipment such as phones, and computers
- Transport
- Access and use of local authority buildings and rooms

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest.

The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence, or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B – Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

“Disclosable Pecuniary Interest” means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of Disclosable Pecuniary Interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion, or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
- a) Your own financial interest or well-being.
 - b) A financial interest or well-being of a relative or close associate; or
 - c) a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

You must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied:

9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
- a) To a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet

member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) 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 and Property	Any beneficial interest in land which is

	<p>within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge):</p> <ul style="list-style-type: none"> (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of
Securities	<p>Any beneficial interest in securities* of a body where:</p> <ul style="list-style-type: none"> (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either: <ul style="list-style-type: none"> (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, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were

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* 'director' includes a member of the committee of management of an industrial and provident society.

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

Table 2: Other Registrable Interests

You must register as an Other Registerable Interest:

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body:
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
 of which you are a member or in a position of general control or management

From: Graham Watts <Graham.Watts@southkesteven.gov.uk>
Sent: 08 May 2024 15:00
To: [REDACTED]
Subject: Fw: Code of Conduct Complaint against Cllr Steve Cunnington
Attachments: CoC Steve C. IMG-20240507-WA0013.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

Hi [REDACTED] - please could you acknowledge.

Thanks
 Graham

From: Cllr Penny Milnes <penny.milnes@southkesteven.gov.uk>
Sent: Wednesday, May 8, 2024 12:35 PM
To: Graham Watts <Graham.Watts@southkesteven.gov.uk>
Subject: Code of Conduct Complaint against Cllr Steve Cunnington

Dear Graham,

I would like to make a Code of Conduct complaint against Cllr Steve Cunnington.

Please see the attached social media post where Cllr Cunnington describes Cllr Green as "Vile disrespectful insensitive **scum!!**"

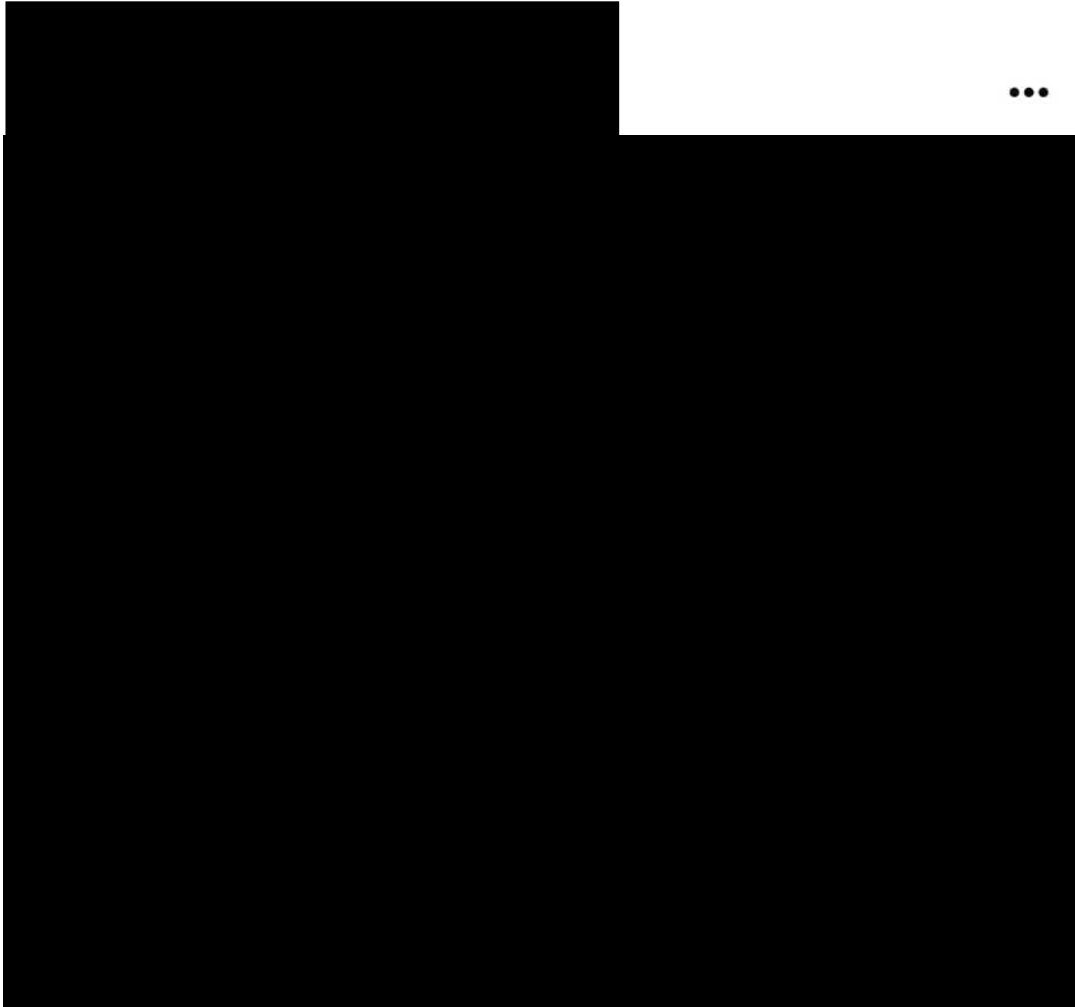
I see this as a clear breach of the council code of conduct, showing a lack of respect and the not adhering to the Nolan principles.

This is not the kind of language we should be using to describe each other; criticize but not in those terms.

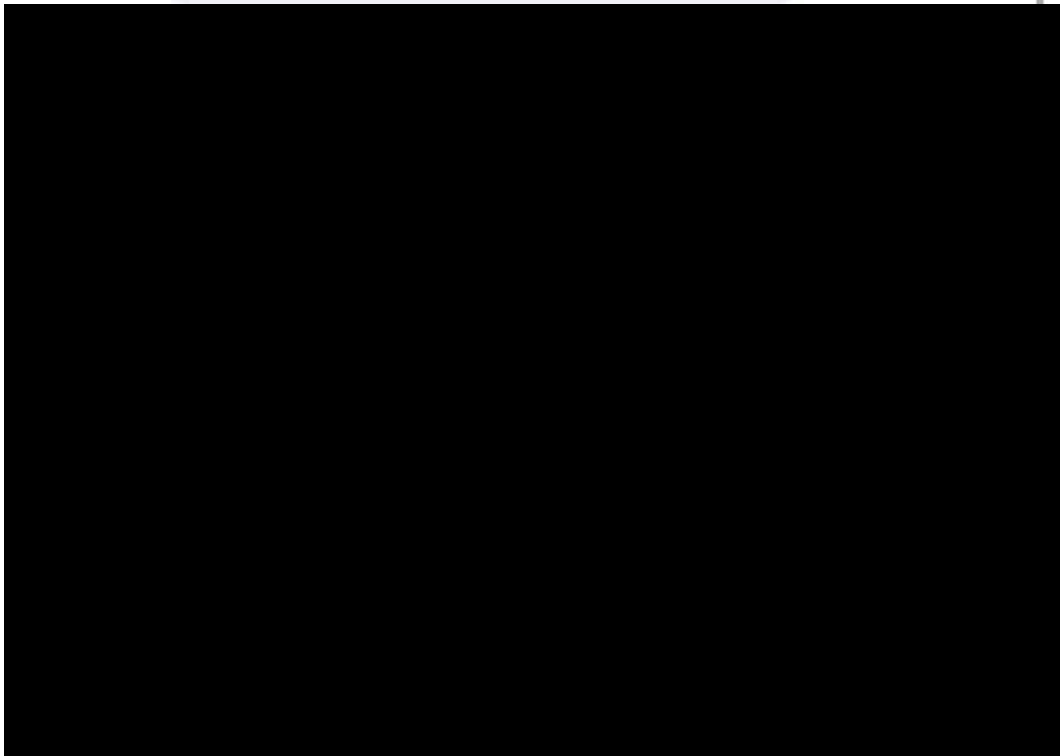
Cllr Penny Milnes
Deputy Leader SK Coalition
Independant Councillor Loveden Heath Ward

Tel: [REDACTED]
 Mobile : [REDACTED]
 Email: penny.milnes@southkesteven.gov.uk
 Website: www.southkesteven.gov.uk

South Kesteven District Council
 Council Offices
 The Picture House
 St. Catherines Road
 GRANTHAM
 NG31 6TT



Cllr Steven Cunningham Earlesfield
Vile disrespectful insensitive scum !!



Write a comment...



SOUTH KESTIVEN DISTRICT COUNCIL
COMPLAINT AGAINST A DISTRICT COUNCILLOR
MONITORING OFFICER ASSESSMENT DECISION NOTICE

Subject Member: Councillor Steven Cunnington

Complainant: Councillor Penny Milnes

Date of Assessment: 20 May 2024

Summary of complaint:

Councillor Steven Cunnington is alleged to have published a comment on social media whereby he described a fellow Councillor as “vile disrespectful disrespectful insensitive scum”.

It is alleged that this such a comment shows a lack of respect is not the kind of language Councillors should be using to describing each other.

Alleged breach of the Councillor Code of Conduct:

The Subject Councillor is alleged to have breached the following aspects of the Councillor Code of Conduct:

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

Summary of response from the Subject Councillor:

“I totally understand Your only doing your job, but I don't recognise the complaints as I don't recognise Ben Green as a Councillor until he takes action to correct his vile behaviour on social media. Ben Green must remove all posts from his social media which have without doubt caused reputational damage and distress. For Graham Jeal to suggest Ben Greens post was a harmless question is outrageous!, he was quite obviously Mocking a Person and Cllr whilst they were at a low point. The post is disrespectful and shows a complete lack of compassion for Cllr Ellis and until removed I remain resolute in my stance that I don't recognise Ben Green, therefore I can't recognise any complaints.”

Information considered:

I have reviewed the content of the complaint submitted by the Complainant, including a screenshot of the social media post referenced.

I have reviewed the content of response of the Subject Councillor to the allegations made against him.

Assessment:

Councillor Cunnington was elected to the Council in May 2023. He is a Member of the Council's Grantham Independent Group and has attended Councillor Code of Conduct training since the commencement of this municipal year.

The comment, which is the subject of the complaint, is in response to a post published on Facebook which provides a clear link to the business of South Kesteven District Council. This demonstrates that the Subject Councillor is acting in an official capacity. The Councillor Code of Conduct was therefore engaged.

The first assessment stage in the procedure for dealing with complaints against Councillors consists of a jurisdictional test. The complaint, taking the above information into account, complied with the principles of the jurisdictional test which meant it passed through to the second assessment stage.

As part of the second assessment stage the following assessment was undertaken against the following criteria included in the procedure for dealing with complaints against Councillors:

Sufficient evidence

I am satisfied that there is sufficient evidence to demonstrate whether or not a potential breach of the Code of Conduct occurred in respect of this complaint.

Alternative action

I have given due consideration to alternative, more appropriate, remedies that should be explored first, including the possibility of informal resolution between the two parties and whether any offer from the Subject Councillor to settle the complaint informally is reasonable.

Based upon the response of the Subject Councillor, it is clear that an informal resolution will not be possible in relation to this complaint.

Robust political debate

Where a complaint is made by a Councillor against another Councillor, a greater allowance for robust political debate may be given, bearing in mind the right to freedom of speech.

Taking into account the language used, I believe that further investigation of this complaint should be undertaken. This will take into account whether the greater tolerance for robust political debate applies, together with rights associated with freedom of expression set out in Article 10 of the Human Rights Act, in the context of the breach of the Councillor Code of Conduct that has been alleged.

Seriousness

I have given due consideration as to whether the complaint is malicious, vexatious, politically motivated or 'tit-for-tat'.

I do not believe the complaint has been submitted maliciously, vexatiously or on the basis of political motivation or 'tit-for-tat'.

Public interest

I have given due consideration as to whether it would be in the public interest to refer the complaint for investigation or other action and whether it is serious enough to warrant any available sanctions.

I believe the language used and the fact that the comment is still publicly available via social media provides sufficient justification for referring this matter for formal investigation.

In assessing the complaint, I did not feel it necessary to request further information from the complainants, Subject Councillor or any other witnesses.

Conclusion

Taking into account the above assessment, I believe there are sufficient grounds to refer this complaint for formal investigation.

Independent Person considerations:

The First Independent Persons concurs with the outcome of the assessment undertaken in terms of referral for formal investigation given the nature of the words used and their use on social media, therefore being in a public arena.

The second Independent Person agrees that this case should be referred for formal investigation.

Monitoring Officer Decision:

That the complaint submitted by Councillor Steven Cunningham, as outlined above, be referred for formal investigation.

Graham Watts
Monitoring Officer
South Kesteven District Council

STATEMENT FRONT COVER

Name:	Penny Milnes
Position Held	Councillor South Kesteven District Council

wilkin chapman llp
solicitors

Cartergate House,
26 Chantry Lane,
Grimsby
DN31 2LJ

a limited liability partnership registered in England number OC343261
authorised and regulated by the Solicitors Regulation Authority.

STATEMENT of: Councillor Penny Milnes

1. I am an Independent Councillor for South Kesteven District Council (the Council). I am Deputy Leader of the South Kesteven Coalition. I represent the Loveden Heath ward. I am Vice Chair of the Planning Committee. I also sit on the Housing Committee.
2. I understand that Wilkin Chapman LLP solicitors have been asked to investigate my complaint against Councillor Steve Cunnington in respect of a comment he made on social media in response to Councillor [REDACTED]'s re-post of Councillor Ben Green's social media post of 1 May 2024.
3. The Conservative and Independent Coalition group is the opposition group on the Council. The other groups (Democratic Independents, Grantham Independents, one unaligned Independent, Labour, Green and Liberal Democrats) form the administration. There is not much political meeting of minds between the two sides.
4. In private we are all relatively nice to each other but I'm afraid politics raises its ugly head and then the nastiness can start. A rather toxic environment has developed, in Full Council in particular, and I believe there is a hatred towards all Conservatives. I am not a Conservative, but as I am an Independent member of the coalition, I have been tarred with the same brush. I have had to call Councillors out on it on a couple of occasions.
5. Councillor Ben Green is quite well known for his sense of humour. At the time of Councillor Green's social media post we were having trouble with the bins. There are still issues around the bins. Councillor Green's post referred to the Cabinet Member for waste stepping down from her Cabinet role and from her Group on the Council. This post triggered all the nastiness.
6. At the time I made my complaint there was a lot of that going on. There have been a lot of complaints. I felt that in my role as Deputy Leader of the coalition I should make this complaint. I have stood up in Council when they were booing to say how disappointed I was to hear all the nonsense going on and, when they continued jeering and booing, how very saddened I was about it.

7. This complaint is about a comment from Councillor Cunningham on a post by Councillor [REDACTED], replying to a post from Councillor Green. Councillor [REDACTED] made claims against Councillor Green after he posted a Grantham Journal news article on his Facebook feed that reported that Councillor Ellis had resigned from Cabinet at 8pm on a Friday night after months of chaos in her portfolio. Councillor Green asked, *“did she resign or was she binned?”* – a question many of us had.

8. Councillor Cunningham’s comment stated:

“Vile disrespectful insensitive scum !!”

9. My view is that you do not respond to a social media post with totally unacceptable language. People seem to think they can say what they want on social media, but it is in public. The public are listening and watching, inciting other people to respond in a more toxic way. Though the issue was obviously political, it has a knock-on effect.

10. Since the many complaints have been submitted, things have calmed down a bit and hopefully people will learn from it. A lot of the councillors are relatively new, so perhaps think this is the way to behave. I think they think it is political banter, personally, I do not. It is reflective of a boorish culture, and we should be rising above it. It has to stop.

11. I attended Code of Conduct training on 28 June 2024, presented by the Monitoring Officer. The Monitoring Officer said issues like this can bring the Council, as well as the role of councillor, into disrepute. The Monitoring Officer also said there is no free licence to throw such insults around in the public arena. It incites other hateful comments from members of the public and goes beyond robust political debate. I don’t know if Councillor Cunningham attended that training session, it was via MS Teams and sometimes we are offered a couple of sessions we can attend.

12. In the training, the Monitoring Officer said we are trying to promote the Council as the best place to come and work. With all this going on, any potential employees or new councillors could be put off.

13. Nobody minds a good debate – as the LGA said ‘debate, not hate’. As an Independent I try to be virtually non-political because I believe that’s the way we should be.

14. I am not aware of any training on the use of social media but think there may be some coming up. I try and keep out of social media conversations as it is a source of trolling. I am quite careful what I say. People have often said to me 'how do you remain so calm?'. I believe you have to keep an element of calm and objectivity to do the best you can. Otherwise, you're likely to say something you shouldn't.
15. I don't think it is just about Councillor Green. The way Councillor [REDACTED]'s post is written there seems to be a wider aspersion that this is to all Conservatives, but it was brought on by Councillor Green's social media post.
16. I don't know Councillor Cunningham that well. He is a relatively new councillor on the other side of the chamber, they haven't tended to want to talk to any of us. However, when I have been in training, I have sat next to him, and he comes across as okay. It often happens that a person can be okay with you but then they'll write or say something nasty behind your back. It makes you wary of talking to them in a more informal setting. We should feel we can talk to each other and liaise.
17. When the toxic and awful comments are made in public, I think it is a real problem. I don't think Councillor Cunningham has tried to apologise or delete the post or to be supportive of an informal resolution.

I, Councillor Penny Milnes, declare that this statement is true and accurate to the best of my knowledge and belief.

Signed by:

[REDACTED]

B46497CFF59444C...

10 July 2024

Signed Date

STATEMENT FRONT COVER

Name:	Ben Green
Position Held	Councillor South Kesteven District Council

wilkin chapman llp
solicitors

Cartergate House,
26 Chantry Lane,
Grimsby
DN31 2LJ

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STATEMENT of: Councillor Ben Green


1. I am a Conservative Councillor on South Kesteven District Council (the Council). I was first elected on 24 February 2022. I was re-elected on 4 May 2023. I represent the Isaac Newton Ward, a large rural ward south of Grantham. I sit on the Finance Committee.
2. I understand that Wilkin Chapman LLP solicitors have been asked to investigate complaints made against Councillor [REDACTED] in respect of his conduct on social media.
3. The Conservative Group on the Council are the largest group but not large enough for a majority. We have formed a coalition with three South Kesteven Independent councillors. There are multiple other parties and independents. My position is that of a back bench councillor, a member of the opposition.
4. I am aware that Councillor Milnes has made a Code of Conduct complaint against Councillor Cunnington in relation to his comment on social media which was aimed at me.
5. I consider social media to be a vital mode of communication. From time to time, I will put out an occasional press release. Sometimes there is quite a time lag before a press release, and I have no editorial control. I think press releases are entered into a queue and it takes time to get your turn, so to speak. It can be a very long, convoluted and sometimes difficult process. So, for me, Facebook, the only social media platform I use, is a great way for me to communicate with my residents.
6. Since late May, I have been Deputy Leader of the Conservative Group. There is an aspect to which we think about being in opposition and getting our distinctive message out. Being in opposition is inherently tough, you're not the administration so don't have responsibility and your quotes aren't going in official Council press releases. To try and compensate for that disadvantage I have used Facebook to communicate quickly and directly to residents to get our message across.
7. First and foremost, it is about putting across a counter narrative. There is an expectation from the public that we hold the administration to account. It is important for democracy for rival

opinions to be put across. It is something I feel my residents would expect me to do, I don't believe they would feel I was doing a good job if I did not hold the administration to account.

8. My interactions with Councillor Steve Cunnington are minimal. We do not share overlapping wards or serve on any committees together. The only occasions when we are in the same room is during full Council meetings. Even then, our in-person interactions have been limited, totalling only a few times.
9. Councillor Milnes is a high-ranking member of the South Kesteven Coalition and serves as the Deputy Leader of the Independent Group aligned with the Conservative Group. Given my role as Deputy Leader of the Conservative Group since late May 2024, we are colleagues in a senior capacity. We both manage and supervise the South Kesteven Coalition.
10. I am aware that Councillor Milnes recognised the incendiary nature of Councillor Cunnington's social media comment "*Vile disrespectful insensitive scum !!*" which was aimed at me and submitted a Code of Conduct complaint.
11. I believe this comment fits the grounds of incitement and falls far outside the boundaries of robust political debate. The language and terminology were dehumanising, particularly the words 'vile' and 'scum'. Such language is unbecoming of a councillor.
12. When I saw Councillor Cunnington's social media comment I was gravely distressed by the use of base language, particularly the words 'vile' and 'scum'. Such comments are likely to stir up strong negative public opinion against me. Such characterisations are wildly off-base, hyperbolic and inaccurate.
13. As I have said above, the comment falls outside robust political debate and constitutes harassment, contributing to an intimidatory atmosphere created by Councillors Cunnington and [REDACTED].
14. This kind of ad hominem attack is wholly inappropriate in any context and could incite third parties to commit acts of aggression or intimidation against me.
15. I did not challenge Councillor Cunnington as I have tried to avoid further inflaming the situation on social media. To my knowledge, I have rarely, if ever, interacted with Councillors Cunnington or [REDACTED] on social media, which highlights the one-sided nature of the hostility directed at me.

16. This situation paints a clear picture of unguarded and extremely inflammatory language used to incite further hatred and animosity against me. Such language is wholly unfounded, breaches the Code of Conduct and warrants a suitable penalty.

I Councillor Ben Green declare that this statement is true and accurate to the best of my knowledge and belief.

Signed 
640F49B32AD54A3...

01 August 2024

SignedDate

EC/GT/97613/244
17 June 2024

wilkin chapman llp
solicitors

Private & Confidential
Councillor S Cunnington

Cartergate House
26 Chantry Lane
Grimsby DN31 2LJ
Tel: 01472 262626
DX 13511 Grimsby 1
FAX: 01472 360198
www.wilkinchapman.co.uk

By email
Steve.Cunnington@southkesteven.gov.uk

Dear Councillor Cunnington

INVESTIGATION OF COMPLAINTS ABOUT THE CODE OF CONDUCT OF SOUTH KESTEVEN DISTRICT COUNCIL

This letter explains how Councillor Jeal's complaints against you will be investigated.

1. The complaints

The Monitoring Officer (MO) of South Kesteven District Council deals with complaints of alleged breaches of codes of conduct applying to local government councillors in its area.

The MO has received complaints alleging that you have or may have failed to comply with the Council's Code of Conduct.

It is alleged that you have:

- 'liked' a comment on social media which described a fellow councillor as a 'self-promoting pratt and very selective with the truth';
- commented 'Well said [REDACTED] to a comment describing Councillor Green as, 'You disgusting little turd';
- described Councillor Green as, 'a vile disrespectful piece of garbage' and 'You vile disrespectful fool!!!'

2. How the complaint will be investigated

The MO has decided to refer the complaints for investigation and has appointed us to investigate the allegations made in the complaint.

The investigation will be undertaken having regard to the Council's investigation procedure which has been adopted by the Standards Committee.

When the investigation is finished, we will report to the MO. The MO will decide whether there has been a breach of the Code and what action should be taken.

My colleague's [REDACTED] and [REDACTED] will gather evidence in this case.

3. Interviewing you

I would like to arrange for [REDACTED] and [REDACTED] to conduct an interview with you via Microsoft Teams. I would therefore be grateful if you could provide your availability for the weeks commencing 24 June 2024 and 1 July 2024 to [REDACTED]. You can contact [REDACTED] by telephone: [REDACTED] or email: [REDACTED]

The interview will be conducted as part of the evidence gathering part of the investigation. You are entitled to be accompanied by a friend, relative or other representative during the interview. Anyone accompanying you must not be connected with the complaint. I would be grateful if you would let me know in advance if you wish to be accompanied.

We will record the interview. We prefer to record interviews because we have found from experience that this is the fairest, easiest and most accurate way for us and you of making sure we record what has been said by everyone present at the meeting.

Following the interview a transcript will be prepared and sent to you for comment. It is likely that your interview transcript will be included in our report which may be made public.

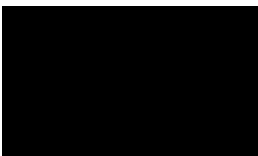
4. Information about the investigation

I must ask that you treat any information provided to you during the course of this investigation as confidential. It is important that you do not disclose information about the investigation to the press, a witness, other councillors, officers, or members of the public. This helps make sure that the investigation can be carried out in a fair way. It does not of course prevent you from providing information to any legal advisor you may decide to seek advice from. Anyone who accompanies you during your telephone interview should also be made aware of the restrictions on disclosure of information.

5. Questions and method of contact

You can contact us by telephone, email, or letter at any time to raise any issue relating to the investigation. I would prefer to exchange communications with you by email. Please reply by email if you agree to this.

Yours sincerely



Estelle Culligan
Partner

WILKIN CHAPMAN LLP

E-mail: estelle.culligan@wilkinchapman.co.uk

Direct Tel: 01472 262614

[REDACTED]

From: [REDACTED]
Sent: 03 July 2024 10:49
To: Steve.Cunnington@southkesteven.gov.uk
Subject: Code of Conduct Investigations

Good morning Councillor Cunnington

I am reviewing some files and we don't yet appear to have received your availability for interview. I would therefore be grateful if you could please provide your availability during the course of the next couple of weeks.

Many thanks
[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: 17 July 2024 11:32
To: Steve.Cunnington@southkesteven.gov.uk
Subject: (97613/245) - CLLR MILNES V CLLR CUNNINGTON
Attachments: (97613/245) - CLLR MILNES V CLLR CUNNINGTON; Code of Conduct Investigations

Dear Councillor Cunnington

I am reviewing some files and it appears we have not yet received a response to the emails sent to you on 18 June (attaching a letter) and 3 July. I attach a copy of the emails for your ease of reference.

It is important that you are afforded the opportunity to respond to the complaint. If you prefer, we could send you some written questions. However, it may be that all you wish to say to us is that you have nothing to add to that which you have already said to the Monitoring Officer.

In any event, it would be good to hear from you with your views.

I look forward to hearing from you.

Kind regards

From: Graham Watts <Graham.Watts@southkesteven.gov.uk>
Sent: Thursday, August 1, 2024 9:30 AM
To: Cllr Steve Cunnington <Steve.Cunnington@southkesteven.gov.uk>

WC 7

Cc: [REDACTED]
Subject: [EXTERNAL] Code of Conduct investigation
Importance: High

This Message originated outside your organisation.

Good morning Councillor Cunnington,

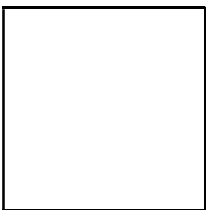
I understand from colleagues at Wilkin and Chapman, who are currently investigating a Code of Conduct complaint against you, that they have not received any response from you to their emails. I was wondering whether you had received these emails, from [REDACTED] (copied in), or whether they have gone into your junk folder. Please could you check and provide a response to [REDACTED]?

I would like to remind you that paragraph 8.2 of the Councillor Code of Conduct states:

“As a Councillor I will cooperate with any Code of Conduct investigation and/or determination.”

Many thanks
Graham

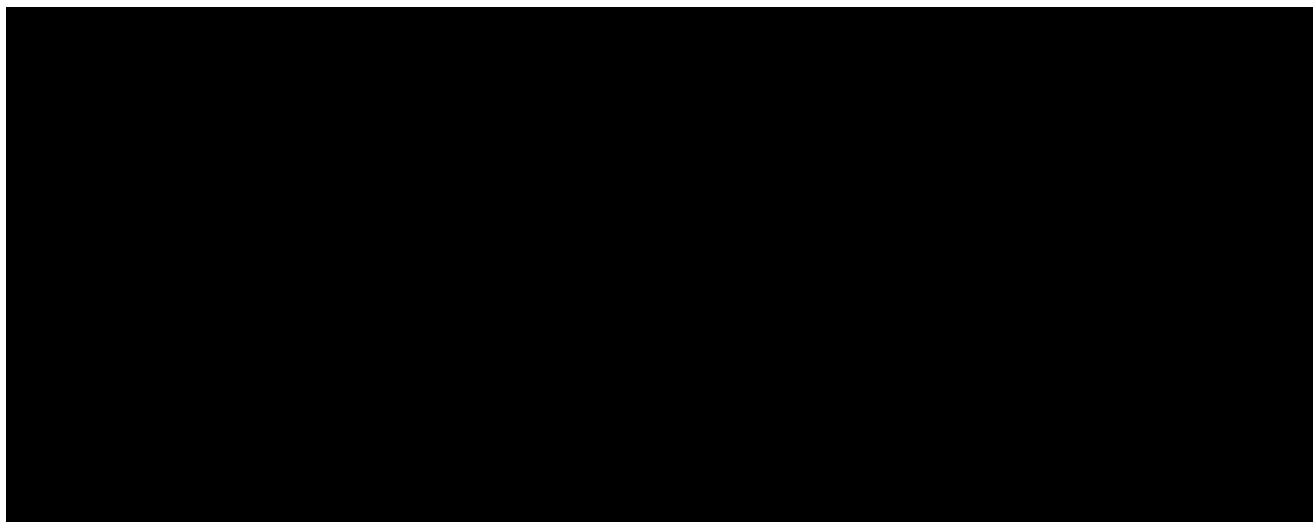
Graham Watts
Assistant Director (Governance and Public Protection) and Monitoring Officer
South Kesteven District Council,
Council Offices, The Picture House,
St Catherine’s Road, Grantham,
Lincolnshire, NG31 6TT
Tel: 07387 521840
Email: graham.watts@southkesteven.gov.uk
www.southkesteven.gov.uk



The information contained in this e-mail along with any attachments may be confidential, legally privileged or otherwise protected from disclosure. It is intended for the named individual(s) or entity who is/are the only authorised recipient(s). If this message has reached you in error please notify the sender immediately and delete it without review. Email is not secure and may contain viruses. We make every effort to ensure email is sent without viruses, but cannot guarantee this and recommends recipients take appropriate precautions. We may monitor email traffic data and content in accordance with our policies and English law.

IMPORTANT PLEASE READ:
CYBER CRIME ALERT:

You will be aware from recent press coverage email scams and cybercrime are becoming more prevalent and despite security measures being in

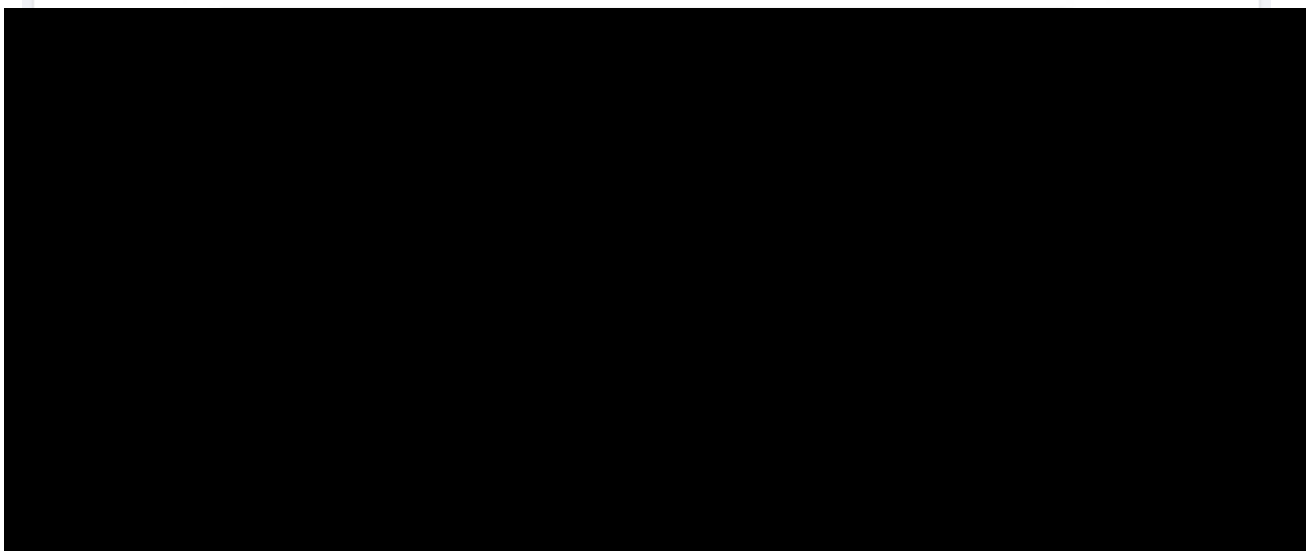


<  Cllr Ben Green
2 h ·  ...



lincsonline.co.uk

Green Party loses first-ever representative as councillor resigns



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Procedure for dealing with complaints against Councillors who are alleged to have breached the Councillor Code of Conduct

Procedure to be followed at Formal Hearings

1. Preliminary Procedural Issues

- a) Introductions
- b) Election of Chairman (if Hearing Review Panel)
- c) Declarations of Interests
- d) To consider any requests for the exclusion of the Press and Public

2. Monitoring Officer, Investigating Officer or their representative

- a) Monitoring Officer, Investigating Officer or their representative to present the report and call such witnesses as they consider necessary, and make representations to substantiate their conclusions within the report.
- b) The Standards Committee/Hearing Review Panel to raise any issues or clarify any matters with the Monitoring Officer or Investigating Officer's report and to question and clarify matters with any of the witnesses called (if any).
- c) The Subject Councillor to raise any issues or clarify any matters with the Monitoring Officer or Investigating Officer's report and to question and clarify matters with any of the witnesses called (if any).

3. Subject Councillor or their representative

- a) The Subject Councillor to respond to the investigation report and call such witnesses as they consider necessary (if any) and make representations.
- b) The Monitoring Officer, Investigating Officer or their representative to raise any issues and to question or clarify any matters with the Subject Councillor and to question or clarify any matters with any of the witnesses called (if any).
- c) The Standards Committee/Hearing Review Panel to raise any issues, question or clarify any matters with the Subject Councillor.

4. Independent Person

- a) The Independent Person to provide their views.
- b) The subject Councillor to seek any points of clarification from the Independent Person or ask any questions.
- c) The Monitoring Officer, Investigating Officer or their representative to seek any points of clarification from the Independent Person or ask any questions.
- d) The Standards Committee/Hearing Review Panel to seek any points of clarification from the Independent Person or ask any questions.

5. Standards Committee/Hearing Review Panel Deliberations

- a) The Review Panel to retire, along with the representative from Democratic Services/designated Legal Advisor to the Panel to determine whether there has been a breach of the Code of Conduct.
- b) The Standards Committee/Review Panel to resume the Hearing to report the decision:
 - If further information or clarification is required, this will be reported and a decision taken as to whether an adjournment or postponement is necessary
 - If no breach of the Code of Conduct, the Hearing ends
 - If there has been a breach of the Code of Conduct, the Hearing will continue

6. Breach of the Code of Conduct

- a) Monitoring Officer, Investigating Officer or their representative to outline possible sanctions.
- b) The Subject Councillor to respond with any mitigation.
- c) The Independent Person to provide their views on appropriate sanctions.
- d) The Review Panel determines appropriate sanctions.

7. End of Hearing

A Decision Notice to be produced and published to all parties within 5 working days.