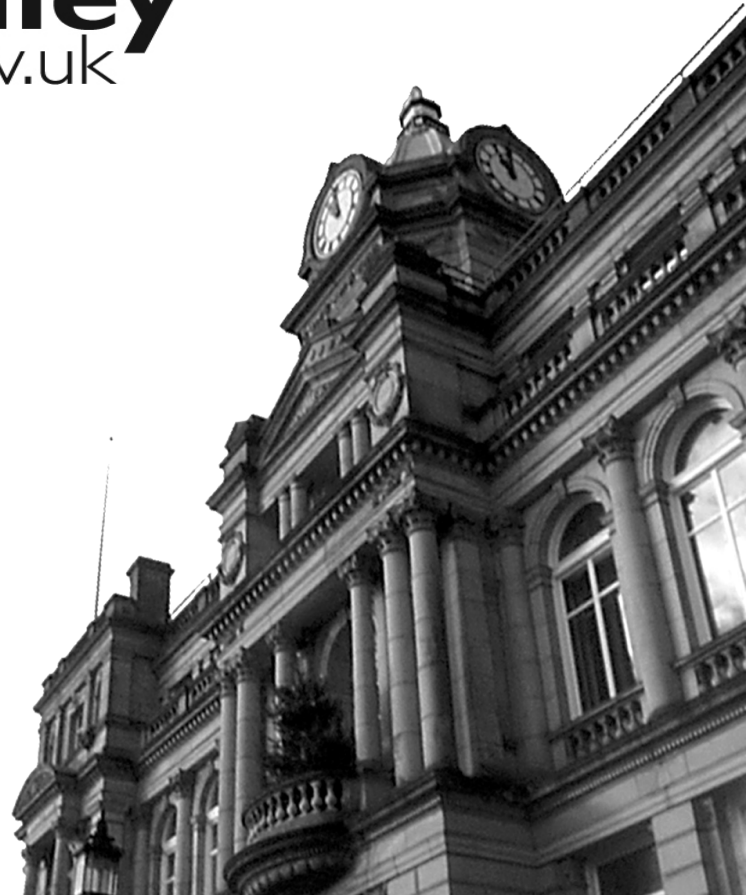


AUDIT AND STANDARDS SUB COMMITTEE HEARING

Thursday, 27th September, 2018
6.00 pm





AUDIT AND STANDARDS COMMITTEE -HEARING

BURNLEY TOWN HALL

Thursday, 27th September, 2018 at 6.00
pm

AGENDA

1) Apologies

To receive any apologies for absence.

2) Declarations of Interest

To receive any declarations of interest from Members relating to any item on the agenda, in accordance with the provisions of the Code of Conduct.

3) Exclusion of the Public

To determine whether the public should be excluded from the hearing.

4) Arrangements for dealing with complaints about the Code of Conduct for members 5 - 16

A copy of the Council's adopted arrangements for dealing with complaints of breaches of the Code of Conduct.

5) Investigation Report 17 - 34

To consider the report of the Investigating Officer.

- a) **appendix 1** 35 - 36
- b) **appendix 2** 37 - 40
- c) **appendix 3** 41 - 42
- d) **appendix 4** 43 - 44
- e) **appendix 5** 45 - 46
- f) **appendix 6** 47 - 48
- g) **appendix 7** 49 - 50
- h) **appendix 8** 51 - 54
- i) **appendix 9** 55 - 56
- j) **appendix 10** 57 - 58
- k) **appendix 11** 59 - 60
- l) **appendix 12** 61 - 62
- m) **appendix 13** 63 - 64
- n) **appendix 14** 65 - 66

MEMBERSHIP OF COMMITTEE

Councillors

Councillor Paul Campbell (Chair)
Councillor Bill Brindle
Councillor Dale Ferrier

Councillor Anne Kelly
Councillor Ann Royle

Co-opted Members

Paul Prior, Burnley College

External Auditor

Published: Friday, 21 September 2018

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BURNLEY BOROUGH COUNCIL ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT THE CODE OF CONDUCT FOR MEMBERS

Introduction

1. This procedure applies when a complaint is received that a Member, Co-opted Member or Parish Member has or may have failed to comply with the Code of Conduct for Members.
2. The person making the complaint will be referred to as “the Complainant” and the person against whom the complaint is made will be referred to as the “Subject Member.”
3. No Member or officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.

4. Making a complaint

A complaint must be made in writing by post or email to: –
The Monitoring Officer
Burnley Council
Town Hall
Manchester Road
BB11 9SA

OR

lpatel@burnley.gov.uk

The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it and, at the same time, write to the Subject Member (and in the case of a complaint about a Parish Councillor to the Clerk of the Parish Council as well) with details of the allegations (subject to any representations from the Complainant on confidentiality, which are accepted as valid by the Monitoring Officer).

The Subject Member may, within 5 working days of receipt, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint will be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued his Complaint Initial Assessment.

5. Complaint Initial Assessment

The Monitoring Officer will review the complaint and where there is a reasonable belief that an investigation is necessary, and after consultation with the Independent Person, take a decision (a Complaint Initial Assessment) as to whether it merits investigation, or another course of action. This decision will normally be taken within 20 working days of receipt of a complaint. If the complaint fails one or more of the following tests, it will be rejected:

- The complaint is against one or more named Members or co-opted Members of the Council or a Parish Council within its district;
- The Subject Member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- The complaint, if proven, would be a breach of the Code of Conduct under which the subject Member was operating at the time of the alleged misconduct.

If appropriate, the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be accepted for investigation, dealt with informally, or rejected:

- Whether a substantially similar allegation has previously been made by the Complainant to Standards for England, or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:-

(i) the resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;

(ii) whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation;

- Whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat;
- Whether the complaint suggests that there is a wider problem throughout the authority;
- Whether it is apparent that the subject of the allegation is relatively inexperienced as a Member, or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether training or conciliation would be the appropriate response;

6. Additional Information

The Monitoring Officer may require additional information to come to a decision and may request information from the Subject Member. Where the complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Clerk of the Parish Council of the complaint and seek the views of the Clerk of the Parish Council before deciding whether the complaint merits formal investigation or other action.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the Subject Member or the authority (in appropriate cases) make a reasonable offer of local resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation. If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer is authorised to report this to the Police or other prosecuting or regulatory authorities.

7. Confidentiality

If a Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the Complaint Initial Assessment stage. As a matter of fairness and natural justice, the Subject Member should usually be told who has complained about them and receive details of the complaint.

However, in exceptional circumstances, the Monitoring Officer may withhold the Complainant's identity if on request from the Complainant, or otherwise, they are satisfied that the Complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.

If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, they will offer the Complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking action on a complaint will outweigh the Complainant's wish to have his or her identity withheld from the Subject Member

8. Investigation

The Monitoring Officer will appoint an Investigating Officer where a complaint merits formal investigation. The Investigating Officer may be a Council officer, an officer of another Council, or an external investigator.

The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost-effective use of Council resources and shall be interpreted in line with these principles.

The Investigating Officer will ensure that the Subject Member receives a copy of the complaint – subject to a Monitoring Officer decision on Confidentiality.

Where practicable an investigation should conclude within a month of the decision to carry out the investigation.

The Subject Member and Complainant should be kept informed on the progress of the investigation, particularly in more complex cases. However, this does not extend to providing details or information as part of the investigation itself; unless relevant to seeking clarification or additional representation.

During the investigation, and at all times, both the Subject Member and Complainant must maintain courteous, respectful and professional relationships with the Investigating Officer, and between themselves and any witnesses; and be cooperative to reasonable requests for information and representation from the Investigating Officer.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report to the Complainant and to the Subject Member, for comments. The Investigating Officer will take such comments into account, before issuing their final report to the Monitoring Officer.

9. Investigating Officer finding of insufficient evidence of failure to comply with the Code of Conduct

The Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is satisfactory, will make a Confirmation Decision to confirm the finding of no failure to comply with the Code of Conduct.

The Monitoring Officer will write to the Complainant and the Subject Member (and to the Clerk of the Parish Council, where the complaint relates to a Parish Councillor), with a copy of the Confirmation Decision and the Investigating Officer's final report.

If the Monitoring Officer is not satisfied that the investigation has been conducted a satisfactorily, the Investigating Officer may be asked to reconsider their report and conclusion.

10. Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for Local Hearing before the Hearings Panel or, after consulting the Independent Person, seek Local Resolution.

11. Local Resolution

If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, they will consult with the Independent Person and the Complainant and seek to agree a fair resolution. Such resolution may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action.

If the Member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Standards Committee and the Clerk to the Parish Council (if appropriate) for information, but will take no further action.

If the Complainant or the Subject Member refuses Local Resolution in principle or to engage with the agreed outcome, the Monitoring Officer will refer the matter for a Local Hearing without further reference to the Complainant or the Subject Member.

12. Local Hearing

Where, in the opinion of the Monitoring Officer, Local Resolution is not appropriate or the Complainant and/or Subject Member refuse to co-operate, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a Local Hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

The Council has agreed a procedure for local hearings, which are included at Page 8 of this appendix [The Pre Hearing Process and The Hearing]

13. Constitution of the Hearings Panel

The Hearings Panel is a Sub-Committee of the Council's Audit and Standards Committee. The Council has decided that it will comprise at least 1 of the Independent Members co-opted to the Audit and Standards Committee and 5 Members of the Council, drawn from at least 2 different political parties. Where the complaint is about a Parish Member, the Hearings Panel will include at least 1 of the Parish Members co-opted to the Standards Committee.

The Independent Person is invited to attend all meetings of the Hearings Panel and their views must be sought and taken into consideration before the Hearings Panel takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

14. The Independent Person

The Independent Person must be a person who has applied for the post following advertisement of a vacancy for the post, and appointed by a positive vote from a majority of all the Members of Council at a meeting of the Full Council.

A person is not eligible for appointment if they:

14.1 Are, or have been within the past 5 years, a Member, co-opted Member or officer of the Council;

14.2 Are or have been within the past 5 years, a Member, co-opted Member or officer of a parish council within the Borough, or

14.3 Are a relative or close friend, of a person within paragraph 14.1 or 14.2 above. For this purpose, "relative" means –

14.3.1 Spouse or civil partner;

14.3.2 Living with the other person as husband and wife or as if they were civil partners;

14.3.3 Grandparent of the other person;

14.3.4 A lineal descendent of a grandparent of the other person;

14.3.5 A parent, sibling or child of a person within paragraphs 14.3.1 or 14.3.2;

14.3.6 A spouse or civil partner of a person within paragraphs 14.3.3, 14.3.4 or 11.3.5; or

14.3.7 Living with a person within paragraphs 14.3.3, 14.3.4 or 14.3.5 as husband and wife or as if they were civil partners.

15. Action the Hearings Panel may take where a Member has failed to comply with the Code of Conduct

Where a Hearings Panel find that a Member has failed to comply with the Code of Conduct, the Council has delegated to the Hearings Panel such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

15.1 Publish its findings in respect of the Member's conduct;

15.2 Report its findings to Council (or to the Parish Council) for information;

15.3 Recommend to Council that the Member be censured;

15.4 Recommend to the Member's Group Leader (or in the case of ungrouped Members, recommend to Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;

15.5 Recommend to the Leader of the Council that the Member be removed from the Executive, or removed from their Portfolio responsibilities;

15.6 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Member;

15.7 Recommend to Council (or recommend to the Parish Council that the Member be removed) from all outside body appointments to which they have been appointed or nominated by the Council (or by the Parish Council);

15.8 Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or

15.9 Exclude (or recommend that the Parish Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

16. Revision of these arrangements

The Council may by resolution or delegation to the Monitoring Officer agree to amend these arrangements and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

17. Appeals

Subject to Judicial Review, or a decision of the Local Government Ombudsman, there is no right of appeal against a decision of the Monitoring Officer or of the Hearings Panel.

The Pre Hearing Process and Hearing

1.1 In advance of the Hearing the Monitoring Officer (and/or his nominees) will:

- (a) agree a date for the hearing with all the relevant parties;
- (b) provide a timetable for the member to provide details about whether they wish to give evidence (and whether orally or in writing) at the hearing and any witnesses they intend to call, and additional papers they may wish to provide in time for inclusion in the committee papers;
- (c) establish whether the member will be represented or accompanied at the hearing;
- (d) establish whether the member wishes any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private, and the reasons for this;
- (e) provide information about the procedure to be used at the hearing;
- (f) establish whether the member disagrees with any of the findings of fact in the Investigation Report;
- (g) establish whether the Investigating Officer intends to call any witnesses.

1.2 Wherever possible hearings conducted by the Hearing Panel shall take place within three calendar months of the referral to the Hearing Panel.

1.3 At the hearing, the Monitoring Officer/Investigating Officer will present the Investigation Report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Monitoring Officer/Investigating Officer may request the person making the allegation to attend and give evidence to the Hearings Panel.

1.4 The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Members' Code of Conduct.

1.5 If a member fails to attend the hearing, the Hearing Panel may decide to proceed in the member's absence and make a determination, or to adjourn the hearing to a later date

1.6 Full details of the process to be undertaken at the hearing are contained in the Hearing Procedure note comprising the Appendix to these arrangements.

1.7 The Hearing Panel, having sought and taken into account the views of the Independent Person may conclude:

(a) that the member did not fail to comply with the Members' Code of Conduct, and dismiss the complaint, or

(b) that the member did fail to comply with the Members' Code of Conduct.

1.8 In the event of a finding under Paragraph 1.7 (b) above, the Chair will inform the member of this finding and the Hearing Panel will then consider what action, if any, it should take as a result of the member's failure to comply with the Members' Code of Conduct. In doing this, the Hearing Panel will give the member an opportunity to make representations to the Panel as to whether any action should be taken and what form any action should take and will seek and take into account the views of the Independent Person. It will then decide what action, if any, to take in respect of the matter.

2. Action which may be taken where a member has failed to comply with the Code of Conduct

2.1 Having determined that a member has failed to comply with the Members' Code of Conduct, the Hearing Panel may:

- (a) Publish its findings in respect of the member's conduct;
- (b) Report its findings to Council (or to the Parish Council) for information;
- (c) Recommend to Council that the member be censured
- (d) Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (e) Recommend to the Leader of the Council that the member be removed from the Executive, or removed from Portfolio responsibilities;
- (f) Instruct the Monitoring Officer to (or recommend to the Parish Council) arrange training for the Member;
- (g) Recommend to Council (or recommend to the Parish/Town Council that the Member be removed) from

all outside body appointments to which they have been appointed or nominated by the Council (or Parish Council)

- (h) Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Member by the Council, such as computer, website and/or email and Internet access; or
- (i) Exclude (or recommend that the Parish Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms necessary for attending Council, Committee and Sub-Committee meetings.

2.2 The Hearing Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

2.3 At the end of the hearing, the Chair shall state the decision of the Hearing Panel as to whether the member failed to comply with the Code of Conduct and as to any action which the Panel has resolved to take.

2.4 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice after consultation with the Chair of the Hearing Panel, and send a copy to the person making the allegation; to the member concerned; make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

The Hearing Procedure

The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be affected at the discretion of the Hearing Panel and advised to the parties

1. The Chair shall facilitate introductions and explain the procedure for the hearing.
2. The Monitoring Officer/Investigating Officer shall be invited to present his/her Investigation Report including any documentary evidence or other material and to call witnesses as required. This report and documentary and witness evidence must be based on the allegation made to the Council; no new or additional matters will be allowed.
3. The Member against whom the allegation has been made or his/her representative may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer. This is the Member's opportunity to ask questions arising from the Investigation Report and the direct evidence and not to make a statement.
4. Members of the Panel may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer
5. The Member against whom the allegation has been made or his/her representative may present his/her case and call witnesses as required.
6. The Monitoring Officer/Investigating Officer may question the Member and any witnesses
7. Members of the Panel may question the Member and any witnesses.
8. The Monitoring Officer/Investigating Officer may sum up the investigation into the allegation and make a closing speech.
9. The Member or his/her representative may sum up his/her case and make a closing speech.

10. The Chair shall invite the parties to withdraw to enable the Panel to deliberate upon the allegation. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.

11. The parties shall be invited to return and the Chair shall announce the Panel's decision in the following terms:-

(a) The Panel has determined that the Member has failed to comply with the Code of Conduct, or

(b) The Panel has determined that the Member has not failed to comply with the Code of Conduct and the allegation is dismissed.

The Panel will give reasons for its decision.

12. If the Panel has determined that the Member has failed to comply with the Code of Conduct it shall consider any representations from the Member as to whether any action should be taken and what form any action should take.

13. The Chair shall invite the parties to withdraw to enable the Panel to deliberate upon what action if any should be taken. Prior to reaching a determination the Panel shall seek and take into account the views of the Independent Person.

14. In addition to any action upon the current matter, the Panel shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members.

15. The parties shall be invited to return and the Chair shall announce the Panel's decision

16. A full written decision shall be issued to the Complainant and the Member within ten clear working days following the hearing and shall be published.



FINAL REPORT

(9 August 2018)

Report of Investigating Officer

To The Monitoring Officer

FINAL Report -

1. Introduction

Report of an investigation under Section 28 of the Localism Act 2011 by Chris Gay appointed as investigating officer by the Monitoring Officer for Burnley Borough Council into allegations concerning Councillor Alan Hosker (the "Subject Member").

2. Summary of the Allegations

It is alleged by Councillor Joanne Greenwood (the "Complainant") that Councillor Hosker breached the Members Code of Conduct in relation to his personal judgement and integrity, and specifically that this conduct could be reasonably regarded as bringing Councillor Hosker's office as a Councillor and the Council into disrepute.

The allegations arise out of the sharing of a video clip posted on Councillor Hosker's Facebook social media page.

3. Councillor Alan Hosker Official Details

Councillor Alan Hosker was elected as a Borough Councillor for the Ward of Hapton with Park on 05/05/16 for a term of 4 years.

Councillor Hosker gave a written undertaking to observe the Code of Conduct for Elected Member's on 16/05/16.

4. The Relevant Legislation and Protocols

- The Localism Act 2011, Section 28
- The Constitution, Part 5.1 (Code of Conduct for Members, "the Code"), Burnley Borough Council

Under the Constitution of Burnley Borough Council elected Councillors are responsible for complying with the Code of Conduct for Members which contains general principles and provisions of conduct.

Specific to these allegations the Complainant has stated that they believe the Subject Members conduct gives rise to breaches of the following general principles and general provisions paragraphs of the Code:

- a) 5.1 Part 1 (5), page 166. "You [Councillors] must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

4. Member Code of Conduct General Provisions Under Investigation

In considering the allegations made by the Complainant and the scope and general obligations given in the General Provisions of the Members Code of Conduct, and the Complaint Initial Assessment, these allegations give rise to an investigation as to whether the following paragraphs of the Code have been breached:

- Part 1. Para. 5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute

5. Evidence Gathered

1. A complaint received by the Monitoring Officer Lukman Patel via e-mail from Councillor Joanne Greenwood on 11/06/18 (appendix 1)
2. An initial complaint letter sent to Councillor Hosker by the Monitoring Officer on 11/06/18 (appendix 2)
3. An unsolicited written representation from [REDACTED] (Witness), dated 12/06/18 (appendix 3)

4. Summary record of verbal representation provided by phone call message to Lukman Patel from Councillor Alan Hosker on 12/06/18 (appendix 4)
5. A written representation dated 13/06/18 from Councillor Hosker in response to the initial complaint letter (see appendix 5)
6. Email representation from Councillor Alan Hosker to Lukman Patel on 13/06/18 (appendix 6)
7. As Monitoring Officer Lukman Patel undertook consultation with the Independent Person Pat Higginbottom on 20/06/18 and agreed that the matter merited a formal investigation. Councillor Hosker was informed of this by letter on 20/06/18 (appendix 7)
8. A copy of a video Clip taken from the "Alan Hosker Borough and County Councillor" Facebook page posted at 2:37 PM on 09/06/18 (included in appendix 2)
9. Record of interview with Councillor Alan Hosker on 02/07/18, confirmed as a true and accurate record signed and dated 04/07/18 (see appendix 8)
10. Record of interview with Councillor Joanne Greenwood 27/06/18, confirmed as a true and accurate record signed and dated 03/07/18 (see appendix 9)
11. Copy of Local Resolution letter from Lukman Patel to Councillor Alan Hosker dated 15/11/17 (see appendix 10)
12. Summary record of initial (verbal) representation provided by phone call for Lukman Patel from Councillor Alan Hosker on receipt of the draft investigation report on 13/07/18 (appendix 11)
13. Written representation from Councillor Alan Hosker in response to the draft investigation report, dated 15/07/18 (appendix 12)
14. Email representation from Councillor Joanne Greenwood in response to the draft investigation report, dated 16/07/18 (appendix 13)

15. Written response and observations from the Deputy Monitoring Officer to Councillor Hosker regarding his representation of 15/07/18 on the draft investigation report (appendix 14)

6. REPRESENTATIONS

6.1 Summary of Complainant Representation

- **Interview with Councillor Greenwood 27th June 2018. Councillor Greenwood chose not to be accompanied at interview.**

Councillor Greenwood was made aware by a resident from her ward, on 09/06/18, of a video clip on the Facebook page belonging to 'Alan Hosker Borough and County Councillor' that was in their opinion "horrendous and vile" and it was "another racist post". The video had been shared at 2:37 PM that day.

Councillor Greenwood advised the resident to raise a complaint with the Borough Council. However, they were reluctant to do this as they found him (Councillor Hosker) intimidating. Separately, another resident also approached Councillor Greenwood to express their concerns about the video.

Councillor Greenwood started to view the video footage shortly thereafter. However, she stopped viewing not long after the beginning upon hearing a crowd chanting "Allah is a Paedo" and "Who the Fuck is Allah".

She felt "very sad" that someone representing her ward would publicly share such an offensive video; adding that in her view "By sharing it he was endorsing it".

Councillor Greenwood believed that sharing the video on his 'Councillor' page, and not his personal Facebook page, was "significant" because lots of people see his Councillor page and that "by doing this he is not setting an example as a Councillor". Adding that she felt that the actions of Councillor Hosker brought his position as Councillor into disrepute through "a complete lack of responsibility and a lack of understanding his responsibilities"

She also read some general comments posted on Councillor Hosker's Facebook page associated with the shared video, made by individuals viewing the page complaining about the lack of media coverage of 'the march', with one comment saying that there should be no coverage.

Separately, Councillor Greenwood also said that she personally had been identified and vilified on social media regarding her making this complaint. Comments attributable to Councillor Hosker, that she found "horrendous", were made on-line on the 'Padiham Community Page', but were removed after a day.

Councillor Greenwood stated that she hoped any outcome to this investigation would be different to last time in that "the last one hasn't worked in terms of social media and what he (Councillor Hosker) puts out there"

6.2 Summary of Subject Member Representation

- **Written representation from Councillor Hosker to Lukman Patel, Monitoring officer, 13th June 2018**
- **Interview with Councillor Hosker 2nd July 2018, accompanied by Councillor Tom Commis**

At interview on 2nd July Councillor Hosker presented a letter addressed to him from the Monitoring Officer, Lancashire County Council. This was a response to a complaint made to the County Council regarding this same video posted on his 'Councillor' Facebook page; the letter stated that no further investigation action was being taken.

The investigating office confirmed that the County Council was a separate organisation to Burnley Borough Council, and any complaint raised with them was a matter for them alone, and he could not comment on it. He returned the letter to Councillor Hosker, and then reiterated the point that this had no bearing on the investigation being carried out by Burnley Council.

In his written representation, as well as at interview, Councillor Hosker stated that he was first made aware of the video being on his 'Councillor' Facebook page only after he had received a letter from Lukman Patel on 12th June informing him that a complaint had been made.

Then when subsequently viewing the video shortly after receiving the complaint letter he "stopped viewing the video when I heard what was being said, I was disgusted"; stating that he "did not post it" and "did not endorse it".

In written representation Councillor Hosker stated that he did not subscribe to the views expressed in the video.

Councillor Hosker stated that the video was removed from his page on 12th June.

He explained that having just recently undergone some surgery on his jaw he had been inactive on his Facebook page since the previous week. During this time his [REDACTED] [REDACTED] [REDACTED]), who has access to his personal, business and Council Facebook pages, "posted a number of articles, including the one complained about on the Council page".

He confirmed that he was "not best pleased" about this happening, going on to say that "Joanne Greenwood had a point, but [REDACTED] didn't watch it before it was copied" and [REDACTED] didn't have any speakers" – to listen to it.

He stated that [REDACTED] only shared the video to show the number of people there at the march. Councillor Hosker had been asked on several occasions if he was planning to attend the march (which he did not). In his opinion [REDACTED] believed it was a normal protest march and thought he might have been interested in it.

Councillor Commis stated that he believed the video originated from an unofficial UKIP discussion group on Facebook; but was shared innocently. He also stated that whilst there may be two separate investigations (referring also to the separate complaint lodged with the County Council) he believed that this looked like "a continuation of politics by Labour" and that it was out of character for Alan to post the video.

Councillor Hosker requested that [REDACTED] is kept out of this matter for medical reasons
[REDACTED]

When asked if he had made any comments regarding this video or the complaint Councillor Hosker stated that he had placed a comment retrospectively on both his Councillor and personal Facebook accounts to state that if the content of the video had caused any upset then he apologised; and that he also apologised in the Burnley Express.

Councillor Hosker reiterated that "Do you honestly think I would post that video. I wouldn't do it. Anyone with common sense wouldn't do that". He also stated that "I am concerned about the cost of this investigation. You'll get nowhere and are wasting taxpayer funds"

Councillor Hosker reported that since an article [about the complaint] had appeared in the Burnley Express that he had received "some nasty phone calls, threatening. I can tell they are Asian because of the tone but the number is withheld". The Deputy Monitoring officer advised that all such incidents should be reported to the Police.

Asked if [REDACTED] ever checked with Councillor Hosker, prior to posting or sharing anything on his Facebook page, to get his agreement he replied "[REDACTED] doesn't ask permission to post things"

6.3 Summary of Witness Representation

An unsolicited letter addressed to Lukman Patel was received from [REDACTED] ([REDACTED] of Councillor Hosker) dated 12th June 2018, in which they state the following:

- That (Councillor) Alan Hosker gave them the passwords to his Facebook accounts on 9th June to update his pages whilst he was having treatment
- That they posted the video of the march to show how many people attended as Councillor Hosker "had been asked numerous times if he would attend"
- Also stating; "I had no idea that they were shouting obscenities", "My computer had no sound", "If I had known I would never of posted it, I am truly sorry"

█ goes on in the written representation to offer apologies for any offence that has been caused. No further representation was required or requested from this witness.

7. Summary of the Material Findings of Fact

I find that there are a number of undisputed facts in this matter as follows:

A) A video clip was posted or shared on the Councillor Hosker County and Borough Councillor Facebook page at 2.37PM on 9th June 2018.

The video clip in question entitled "Free Tommy Robinson March, London 09/06/18" was approximately twelve minutes long. The footage was taken from within a crowd that had congregated in Trafalgar Square, London. The clip was recorded by persons unknown from a single vantage point panning around the large crowd. This was part of a public march and demonstration in support of Tommy Robinson, the founder of the English Defence League, who had recently been jailed for 13 months for contempt of court. The clip originated from the Unity News Network and was originally posted there at 2:19 PM on 09/06/18. A copy of the video has been retained as part of this investigation

B) The video footage contained chanting of a highly insulting, inflammatory and anti-Islamic nature.

From the start of the video clip and for approximately 50 seconds the crowd can be clearly heard, and seen, repeatedly chanting loudly "Allah is a Paedo, la, la, la la..." followed by "Allah, Allah, who the fuck is Allah". These same chants repeat at later stages in the footage at around 8 mins, for a further 30 seconds. The crowd is also heard continually through the footage with chants of "We want Tommy out", "English till I die" and "Whose Streets, our streets"

C) That the complainant and the Subject Member find the chanting in the video offensive.

Both commenting respectively that they found the chanting to be "disgusting" and "offensive"

D) That Councillor Hosker permitted someone other than himself to have access to his 'Alan Hosker Borough and County Councillor' Facebook page.

Both Councillor Hosker and [REDACTED] confirmed through their representations that [REDACTED] had access password(s) to Councillor Hosker's Facebook pages, including "Alan Hosker Borough and County Councillor", where they were able to post and share videos and comments unrestricted.

E) The video clip was shared on Facebook without any comment or narrative associated with it, other than its original title.

This fact is confirmed by both the complainant and Councillor Hosker; however, once the video and any comments associated with it were deleted they were no longer available to be viewed on-line as part of this investigation.

F) The video was no longer able to be viewed on the Facebook page sometime on or around the 12th June 2018.

The video clip was still present at 10:04 on 12th June but was deleted between sometime later that day and the morning of 14th June when a check revealed that the video was no longer present. The video had been visible for a minimum of three days.

G) An apology was posted on the Alan Hosker (personal) Facebook page at 5.28PM on 13 June (this was after the initial complaint letter was received by Councillor Hosker from the Monitoring Officer).

The wording is as follows below. My observation is that the focus of the message is political as opposed to being conciliatory and does not appear sincere. It also only appeared on Alan Hosker's personal Facebook page, and is not on the Facebook page on which the video was shared.



Alan Hosker

June 13 at 5:28 PM · 🌐

Just to update my family and friends. I have received a letter of complaint sent to the Borough Council from Hapton With Park Labour Borough Councillor Joanne Greenwood regarding a post that was shared on my page regarding a live march last Saturday 9th June 2018 - a protest march supporting Tommy Robinson.

The computer this was shared from had no sound so until I heard it and was made aware I wasn't aware of the chants. It's not the first time the Labour run Council have tried to discredit or drag me down and no doubt it won't be the last. It's not my fault that Labour is losing seats (the post has now been deleted but apologies if this has upset anyone all the same).

H) In his representation Councillor Hosker states that an apology was provided by him in the Burnley Express.

An article was published by the Burnley Express on 14/06/18 under the title "Burnley UKIP councillor accused of sharing Islamophobic video".

In this article Councillor Hosker is quoted as saying "This is not the first time a Labour councillor has filed a complaint against me or my team. They've already spent over £1,000 of taxpayers' money on these investigations and for what? It is unfortunate that Burnley Labour cannot get me at the ballot box so I expect these witch hunts will continue".

Councillor Hosker's comments in this article are political in nature and do not include any apology as he stated in his representation.

There are some issues that are inconsistent within the Subject Members representations, those details and the response from Councillor Hosker are as follows:

1) In his written representation on 13th June Councillor Hosker states that he was inactive on Facebook "since last week"; covering the period during which the video was shared. At interview he confirmed that he didn't access his Facebook account on the weekend of 9th & 10th June.

There are messages posted and attributable to him on both the Alan Hosker (personal) and Alan Hosker County and Borough Councillor Facebook pages on the 10th June regarding the Hapton Parish Council Festival, and shared video posts relating to Brexit. When asked to explain this Councillor Hosker stated that [REDACTED] must have posted them as well"

2) There are several comments posted as attributable to Councillor Hosker, on his personal Facebook page, commenting on the march in response to other peoples shared comments. It is not possible to put a date on these posts but they do appear to be a reaction to the complaint being raised. This is inconsistent with Councillor Hosker's representation that the comments he made were an apology.

3) At interview Councillor Hosker stated that [REDACTED] does not seek his permission to post on his Facebook page. However, there is a post on 8th June from [REDACTED] asking if they can post an item about an event in Hapton

commemorating the end of World War One (the item was subsequently posted).

4) Councillor Hosker had indicated his Facebook passwords had been changed as per the local resolution to a complaint in November 2017, in which he agreed to take sole responsibility for managing his Facebook page(s) but others still had access to his passwords.

8. Findings as to whether there have been failures to comply with the Code of Conduct for Members

In respect of the requirement that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute (Part 1 Paragraph 5)

In light of all the findings of fact I find that there has been a failure by the Subject Member to comply with the Code of Conduct for Members in relation to conduct that could reasonably be regarded as bringing their office and the authority into disrepute.

Reasoning:

The explanation as presented is plausible but weak.

This weakness is based upon the convenience of the explanation and its timing, the circumstances surrounding it, and the inconsistencies identified in the representation of Councillor Hosker. In any event the issue as to whether the explanation is plausible or not is of secondary importance.

The Breach of the Code of Conduct General Provisions is due to:

- 1) The substantial findings of fact that are undisputed, in that a video clip was shared on the "Alan Hosker County and Borough Councillor" Facebook page, there is agreement that the content was insulting, offensive and it was visible for several days. The fact that this happened, and was made possible, outweighs how it happened i.e. who was responsible for the physical act of sharing the video;
- 2) Due to Councillor Hosker's failure to abide by the local resolution agreed to on 15th November 2017 where he agreed to personally manage his Facebook pages to ensure only he would make posts or comments on Facebook (see details in appendix 10). Also he did not prevent anyone other than himself access to it and allowed others to manage this page. The outcome of his disregard of these responsibilities was the sharing of an insulting video clip.
- 3) The sharing of this video would likely be seen as an act of endorsement of it by anyone viewing the post, particularly with no supporting comment as to the rationale for its being posted. Being responsible for putting themselves in that situation is not the conduct expected of an elected member or an example they should set.

Each of these factors serves to bring Councillor Hosker's office as elected member and the authority into disrepute.

In addition to this it is my opinion that there has also been a breach of the following General Principle of the Code of Conduct for members:

- 4) Leadership; members should promote and support General Principles of the Code of Conduct by leadership, and by example, and should act in a way that secures or preserves public confidence

The breach in respect of the Leadership principle is through disregarding the agreed actions of the local resolution in November 2017 to personally manage Facebook pages rather than allowing third party access to post material. The example provided through this failure does not secure or preserve confidence in, or demonstrate, leadership, public or otherwise.

9. Conclusion

I recommend to the Monitoring Officer that there is sufficient evidence to suggest that Councillor Hosker has breached the Members Code of Conduct.

10. Further Comments of the Subject Member and Complainant

Following submission of my draft findings to the Subject Member and Complainant, comments have been received as set out in appendix 12 (Subject Member) and appendix 13 (Complainant), as is the investigating officer's response to the Subject Member in appendix 14.

Separately to the above, new evidence is available in the form of:

- Summary record of representation from Councillor Hosker provided in phone call message for Lukman Patel on 12/06/18 (appendix 4)
- Email representation from Councillor Hosker dated 13/06/18 (appendix 6)
- Summary record of Councillor Hosker's representations, upon receipt of the draft report, provided by phone call for Lukman Patel on 13/07/18 (appendix 11)

These additional items were submitted for comment. But none were forthcoming from the Subject Member or Complainant.

I have no further comment to make as the matters raised by any further representation do not have a substantial bearing on my findings in this matter which accordingly remain unchanged.

Appendix 1

From: GREENWOOD, Joanne B
Sent: 11 June 2018 15:25
To: Lukman Patel <LPatel@burnley.gov.uk>
Cc:
Subject: Alan Hosker

Good afternoon Lukman,

I'm writing to complain again about Cllr Hosker and the offensive racist videos he has been posting on his councillor facebook page. I know he had promised he wouldn't do this again but the one on their at the moment is even worse than the last!

On 9th June at 14.37 Alan shared a video titled Free Tommy Robinson March which starts with the crowd shouting 'who the fuck is Allah' then 'Allah is a peado' which is disgraceful for a representative of the Council!

Please can you look into this urgently and ask him to remove the post, I'm ashamed that he thinks he is representing residents of Hapton with those views!!!

Regards

Joanne Greenwood

Disclaimer: This e-mail is confidential to the intended recipient. If you have received it in error, please notify the sender and delete it from your system. Any unauthorised use, disclosure, or copying is not permitted. This e-mail has been checked for viruses, but no liability is accepted for any damage caused by any virus transmitted by this e-mail. This e-mail address is not secure, is not encrypted and should not be used for sensitive data.

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Burnley.gov.uk

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Town Hall, Manchester Road
Burnley, Lancashire BB11 9SA

Tel: 01282 477140
www.burnley.gov.uk

Private & Confidential
Councillor Alan Hosker
2 Bright Street
Padiham
Burnley
BB12 8RA

Our Ref LP/110618CllrHosker
Your ref
Date 11th June 2018

Dear Councillor Hosker

Complaint: Facebook Post

I have received a complaint about you from Councillor Joanne Greenwood relating to a post that you have shared on Facebook. A screenshot of that post together with the complaint is attached to this letter.

An assessment needs to be made whether you may have failed to comply with the Council's Code of Conduct for Members and whether the complaint should be investigated.

Before I consult with one of the Independent Persons on whether or not this complaint should be investigated, I am inviting your written representations. You are obliged to make written representations to me, which I must take in to account when deciding how the complaint is to be dealt with. You must make these representations to me within 5 working days. Any representations received after this date may be taken in to account by me at my discretion but will not, in any event, be considered after I have issued my Complaint Initial Assessment.

Yours sincerely

Lukman Patel
Chief Operating Officer
(Monitoring Officer)

Enc



Alan Hosker Borough and County Councillor shared a live video.

...

June 9 at 2:37pm



100% size

Unity News Network 1000+ likes
June 9 at 2:19pm

Like Page

Free Tommy Robinson March London 09/06/18 #FreeTommy

<https://www.facebook.com/UnityNewsNetwork/>

Like

Comment

Share



9

Oldest

3 Shares



Lukman Patel

From: GREENWOOD, [REDACTED]
Sent: 11 June 2018 15:25
To: Lukman Patel
Cc: [REDACTED]
Subject: Alan Hosker

Good afternoon Lukman,

I'm writing to complain again about Cllr Hosker and the offensive racist videos he has been posting on his councillor facebook page. I know he had promised he wouldn't do this again but the one on there at the moment is even worse than the last!

On 9th June at 14.37 Alan shared a video titled Free Tommy Robinson March which starts with the crowd shouting 'who the fuck is Allah' then 'Allah is a peado' which is disgraceful for a representative of the Council!
Please can you look into this urgently and ask him to remove the post, I'm ashamed that he thinks he is representing residents of Hapton with those views!!!

Regards

Joanne Greenwood

[REDACTED]: This e-mail is confidential to the intended recipient. If you have received it in error, please notify the sender and delete it from your system. Any unauthorised use, disclosure, or copying is not permitted. This e-mail has been checked for viruses, but no liability is accepted for any damage caused by any virus transmitted by this e-mail. This e-mail address is not secure, is not encrypted and should not be used for sensitive data.

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12-6-18

Dear Sir / Madam

I am writing to you after hearing about a complaint made against councillor Alan Hosker. on the 9-6-18 Alan give me passwords to his Facebook accounts to update his pages as he was having Treatment due to a bone graft to his Jaw.

It was me that posted the Live Protest March but in fairness my computer has no sound if you would like to pay me a visit and look for yourself you are quite welcome I posted it as Alan had been asked numerous times if he would attend to which he refused everytime. I had no idea they were shouting obscenities. if I had known I would never of posted it. I am Truly Sorry if I offended anyone and for that I apologise. I posted it just to show him the ^{amount} ~~extent~~ of people that were there and that was the only reason. I didn't realise I had done anything wrong. please accept my apologies.

yours Sincerely

I will add the post got deleted

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From: [REDACTED]
Sent: 12 June 2018 16:41
To: Lukman Patel
Cc: [REDACTED]
Subject: Councillor Hosker - [REDACTED]

Hello Lukman

Councillor Hosker rang again. Here are a few bullet points falling out of his call:

- Councillor Hosker is fuming about a complaint
- He'll take the matter to a national newspaper and sue Burnley Borough Council ("I know they can't afford it.")
- "I'm not happy about being accused of being racists when no words have come out of my mouth."
- "You're not getting an apology."
- "I'm going to put it round Hapton and let the residents decide. I'm an independent and going to use that to my advantage."
- "I'm not having a jumped up Councillor tell me what I can and can't do."

Councillor Hosker is waiting for your call.

[REDACTED]

[REDACTED]
01282 425

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Councillor Alan Hosker
2 Bright Street
Padiham
Burnley
BB12 8RA

Mr Lukman Patel
Chief Operating Officer
Burnley Borough Council
Town Hall
Manchester Road
BB11 9SA

Ref: LP/110618CllrHosker
Date: 13th June 2018

Dear Mr Lukman Patel,

I'd like to thank you for your letter of concern regarding a recent facebook post that appeared on my site. I have to agree after seeing this post that I was equally displeased with it's contents and in no way do I subscribe to the views expressed.

Having just gone through surgery on my jaw I did in fact take time out of Council work and have not been active on my page since last week. In that time [REDACTED] had access to my personal, business and Council work page where [REDACTED] posted a number of articles, including the one complained about on the Council work page.

To put it mildly I was not best pleased. However in [REDACTED] defence [REDACTED] did not listen to the live video and posted to show the amount of people there as I have been asked a number of times whether I would be attending myself.

Therefore I was not aware of the post until I opened your letter and checked for myself as I did not post it or endorse it. [REDACTED] has apologised to me for this and I have since removed the video. I am told [REDACTED] will write to you [REDACTED] to explain the situation.

I am surprised that my colleague Councillor Joanne Greenwood did not mention this at the meeting we both attended on Monday.

However thank you for bringing the matter to my attention.

Yours Sincerely



Burnley Borough Councillor Alan Hosker

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om: A HOSKER [REDACTED]
Sent: 13 June 2018 14:44
To: Lukman Patel
Subject: Fw: FACEBOOK POST

Hi Lukman,

Thank you for speaking with me earlier. Just to confirm the password to my account is changed.

Thanks

Alan

On Wednesday, 13 June 2018, 12:35, A HOSKER [REDACTED]

Hi Lukman,

I have received your letter. Please see the attached response.

Thanks

Alan

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Private & Confidential

Councillor Alan Hosker
2 Bright Street
Padiham
Burnley
BB12 8RA

Our Ref LP/200618CllrHosker
Your ref
Date 20th June 2018

Dear Councillor Hosker

Re: Complaint: Facebook – Councillor Joanne Greenwood

I have now consulted with the Council's Independent Person, Pat Higginbottom.

Both the Council's Independent Person and I agree that the allegations (if proven) disclose a potential breach of the Code of Conduct.

We both are in agreement that the complaint merits a formal investigation.

I have appointed the Council's Governance Manager, Chris Gay to undertake that investigation. I trust that he shall be in touch with you shortly to arrange a meeting with a view to obtaining formal representations from you on the allegations.

I must stress that the fact the matter is being investigated does not necessarily suggest that you have breached the Council's Code of Conduct.

Yours sincerely

Lukman Patel
Chief Operating Officer
(Monitoring Officer)

cc Chris Gay
Pat Higginbottom

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Appendix 8

Notes of interview held with Councillor Alan Hosker
2nd July 2018
Interview Commenced at 2PM

Alleged Breach of Member Code of Conduct, potentially bringing the office of Councillor into disrepute

Present: Councillor Alan Hosker, Chris Gay, Councillor Tom Cornis, Vicky White

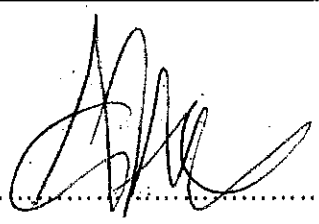
Chris Gay	Explained that the meeting was being held to enable the opportunity to take representations from both parties. It was noted that a written representation from Councillor Hosker had been received. No judgement was being made and the purpose of the meeting was to collect information. A report will then be prepared for the Monitoring Officer to decide what further action, if any, is to be taken. The notes of the meeting will be typed up and sent to Councillor Hosker to agree as an accurate record.
Councillor Hosker	Asked that the County Council's opinion received from their legal team be read as he didn't want judging once there and once here.
Chris Gay	Noted the contents but explained that this was a separate organisation and investigation
Councillor Hosker	Explained that the author of the letter was not aware of the letter from [REDACTED]
Chris Gay	Explained again that this is a separate organisation and he was dealing with the complaint received by Burnley Borough Council and it was his duty to take representations on that.
	The letter was returned to Councillor Hosker
Chris Gay	Can you tell me when and how you were made aware of this video being posted on your Councillor Facebook page?
Councillor Hosker	When I received the letter on 12 th June from you.
Chris Gay	Did you view the video?
Councillor Hosker	Not straight away but it was later that day. I was not happy when I received the letter.
Chris Gay	Did you watch the full clip?
Councillor Hosker	I am an official referee and I send players off for making racial remarks. I do not tolerate that behaviour. I stopped viewing the video when I heard what was being said – I was disgusted. I do believe in democracy but believe that protests should be carried out in a good manner
Chris Gay	You have explained that [REDACTED] posted the video. Can you explain why?

Councillor Hosker	I kept being asked if I was going on the march. I don't go on any public marches. I was away for a few days and then came back to the letter. ██████ believed that it was a normal protest march and thought I might have been interested in it.
Chris Gay	Did it just go on your Councillor page?
Councillor Hosker	I can't remember. It might have been on my Councillor and personal pages. It has now been taken off. It wasn't on my business page and I didn't actually see it on my personal page.
Chris Gay	You said in a letter to Lukman Patel about this matter on 13 June that ██████ posted other articles. Do you recall what they were and when? Does this happen often?
Councillor Hosker	█████ looks after my business page if I'm not there. ██████ has access to all 3 pages but ██████ doesn't normally post on my Councillor page and that's why I was surprised when I got the letter.
Chris Gay	You have stated that ██████ did not listen to the video. How do you know this?
Councillor Hosker	I asked ██████ heard it and ██████ said that ██████ didn't have any speakers. ██████ didn't watch it, I said to ██████ if you do post something listen to it first. I don't want to cause ██████ or this – ██████. I wasn't please when I saw it – Joanne Greenwood had a point but ██████ didn't watch it before ██████ copied it.
Councillor Comis	It looks like it was shared from a UKIP Group on Facebook but this isn't an official UKIP site – just a place where people discuss UKIP.
Councillor Hosker	█████ would not copy anything from Britain First or the BNP
Chris Gay	The video is branded from News Network
Councillor Comis	I believe it was shared from a UKIP group as explained but was done innocently
Chris Gay	You've explained that you took some time away from Council work after undergoing surgery and there were a number of days when you didn't access your Facebook account. Can you recall the dates?
Councillor Hosker	It was that weekend – 9 th & 10 th June
Chris Gay	During that period there were several Facebook posts – can you explain these?
Councillor Hosker	█████ must have posted them as well.
Chris Gay	Does ██████ check with you before posting anything on your Councillor Facebook page?
Councillor Hosker	I didn't know anything about these posts until on Tuesday when I received the letter from the Council. ██████ doesn't ask permission to

	post things.
Chris Gay	When did you remove the video?
Councillor Hosker	As soon as I saw it after getting the letter from Lukman.
Chris Gay	Who actually removed it?
Councillor Hosker	I personally removed it
Chris Gay	Did you make any comment on Facebook with regards to the video either before or after its removal?
Councillor Hosker	No I just removed it. I removed it after I heard the first couple of lines. I understood why a complaint had been made.
Chris Gay	Have you made any comments about this complaint on any social media?
Councillor Hosker	I placed a comment on both my Councillor and personal Facebook accounts to state that if the content of the video had caused any upset then I apologise. This complaint has also been made public via the Burnley Express so I have apologised on there as well.
Chris Gay	Do you recall the outcome of the local resolution to a complaint investigation in 2017? One of the remedial actions was for you to: <i>"Personally manage your Councillor Facebook page rather than allowing a third party to access it"</i> How do you respond to this in light of the current investigation?
Councillor Hosker	I didn't class [REDACTED] who [REDACTED] and manages my business page as a third party. The same password covers all 3 of my pages but [REDACTED] never shares or copies any posts – that's what surprises me. Anything [REDACTED] done [REDACTED] done innocently. [REDACTED] can't do anything but apologise. I've been to see a solicitor who as pointed out that I signed the Code of Conduct and I haven't done anything. I can't be held responsible for what [REDACTED] done.
Councillor Hosker	You've seen the letter from County Hall and I've already spoken to legal at County Hall. The Burnley Express has been told about the investigation and this shouldn't have been made public.
Chris Gay	The Council does not and would not comment or release a press statement about investigations that are being conducted.
Councillor Hosker	The Burnley Express repeated the story on Friday. I'm trying to run a business as well as being a Councillor.
Chris Gay	Have you been contacted for further comment?
Councillor Hosker	No but it feels like I've been assessed as guilty before it's been investigated. In respect of the issue around the German game I was

	concerned about my vehicles being smashed up – I don't speak German so didn't know what was being said on the post.
Chris Gay	That matter has been concluded, it related to a separate investigation.
Councillor Hosker	I didn't think [REDACTED] put something on. I didn't know that [REDACTED] written to you. [REDACTED] also ill at the moment.
Councillor Comis	It may be 2 separate investigations but it looks like a continuation of politics by Labour. It is out of character for Alan to post that video – why would he do it?
Councillor Hosker	Do you honestly think I would post that video? I wouldn't do it. Anyone with common sense wouldn't do that. I do have a role as a Councillor representing the public and am concerned about the cost of this investigation. You'll get nowhere and are wasting taxpayer funds. I also request that [REDACTED] is kept out of this matter for medical reasons. [REDACTED] [REDACTED]. Since the article appeared in the Burnley Express I have received some nasty phone calls – threatening. I can tell they are Asian because of the tone but the number is withheld. I have to think about [REDACTED] – it shouldn't have gone in the Burnley Express.
Chris Gay	In respect of the calls I would advise that you contact the Police. I note your concern about [REDACTED]
Councillor Hosker	[REDACTED] has apologised for what [REDACTED] has done and has written a letter.
Chris Gay	Explained that the notes would be typed up and sent to Councillor Hosker for him to confirm as an accurate record. They would also need to be signed.

Signed as a correct record:



Name: ALAN HOSKER

Date: 4th May 2018

PRIVATE & CONFIDENTIAL

Note of meeting with Councillor Joanne Greenwood at 10AM on 27th June 2018.

Present; Councillor Joanne Greenwood, Chris Gay Deputy Monitoring Officer and Imelda Grady Democracy Office

Chris Gay explained the purpose of the interview and the process to be followed in relation to the complaint against Councillor Alan Hosker.

Q1. How did you become aware of the post on Councillor Hosker's councillor Facebook page?

JG: By a phone call from a resident who was complaining that the post was horrendous and vile and was racist. The resident was aware of the previous post that Cllr Hosker had put on his Facebook page and referred to this as another racist post. I advised the resident to make the complaint to the Council but [REDACTED] did not want to as they found him intimidating. Also by [REDACTED] via a resident who had complained about the post.

Q2. Did the resident tell you how [REDACTED] felt the post made [REDACTED] feel.

JG: No, but [REDACTED] said it was another racist post on his Facebook page. I went to view the post later on (listening to it through headphones) and could see it was about the Tommy Robinson demonstration and was not surprised that it would have Cllr Hosker's support, I could see there was chanting going on but then I listened to it and within seconds could hear the phrases used and the offensive language, I listened to it for several minutes but not the full 12 minutes. I can't imagine it could have got any worse,

Q3. Were there any comments on the Facebook page.

JG: Yes, comments were made about the lack of coverage of the event by the BBC, Cllr Hosker posted that he was not surprised about the lack of media coverage, one other comment said the BBC shouldn't share it.

Q4. How did the post make you feel?

JG: Sad, very sad that someone representing my Ward would share it, by sharing it he was endorsing it and to feel so confident to put it on his Burnley Councillor Facebook site, people would think it was his professional view. Sad that people would see it.

Q5. Other than putting the video on, were there any comments attributable to Cllr Hosker.

JG: No, but neither did he comment that he didn't agree. In sharing it I feel that he is endorsing it.

Q6. In your view that fact that he had posted it identified his support?

JG: Yes, he endorsed it absolutely. A large amount of people view that page and sharing it was significant. The fact it was on his page as a Councillor not his own private page, he is not setting an example as a Councillor and shows a complete lack of responsibility. It was inappropriate.

Q6. What part of the Council's Code of Conduct do you feel has been breached?

JG: Bringing the office of Councillor into disrepute. There is a complete lack of responsibility and a lack of understanding of his responsibility.

Q7. What would you suggest would be an appropriate outcome?

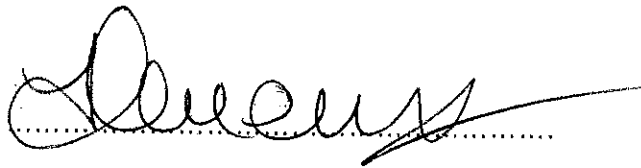
JG: Last time he was asked not to put things like this on Facebook and to put measures in place to ensure the it didn't happen again. This doesn't get monitored and he has done it again. So far his excuse is the same as last time. I hope for a different outcome as the last one hasn't worked in terms of social media and what he puts out there.

He is now demanding a public apology after the complaint. Can we ask that he publically comments on the outcome of the investigation? (CG explained the process and cannot compei a subject member to comment, he also outlined the possible sanctions that a Standards hearing could impose as being a recommendation to the Council that the member be censured; that findings be published; recommend to group leaders that an individual should be removed form a committee)

I have been identified specifically as the complainant and have been vilified on social media for it. It was on the Padiham Community Page but was removed after a day, some of the comments were horrendous and some were attributable to Councillor Hosker.

Councillor Hosker has told the press that investing the complaint will incur costs of £1k for the council. The Burnley Express and Telegraph have reported this and have contacted me for a comment; I referred them to the Council for comment. It has been very stressful and would like a swift conclusion. I can see how people are reluctant to make complaints.

Signed as a correct record:



Name:

JOANNE GREENWOOD

Date:

3/7/18



Private & Confidential

Councillor Alan Hosker
2 Bright Street
Padiham
Burnley
BB12 8RA

Our Ref LP/15117CllrHosker
Your ref
Date 15th November 2017

Dear Councillor Hosker

Local Resolution

Thank you for visiting Pat and I yesterday.

Your proposal for a local resolution (set out below) is acceptable to Councillor Townsend. The only paragraph I have added following yesterday's meeting is the final paragraph that was suggested by [REDACTED] on your behalf. I trust that this is acceptable.

"Councillor Hosker condemns the language used in the video. Councillor Hosker apologised that the video was shared on his Facebook page. He disapproves with the language used in the video and the video has been removed.

Whilst this was an error, he has agreed to take the following remedial action to prevent this from reoccurring;

- *Purchasing audio-equipment for his PC to manage the situation*
- *Personally, managing his County Councillor Facebook page rather than allowing third parties access to it*

The Investigating Officer was satisfied that Councillor Hosker was not attempting to bring about any reaction (xenophobic or otherwise) that would lead to conflict, divisions or hatred between any groups when posting the video."

As discussed, in accordance with the Council's policy for dealing with complaints this will be noted in the update report to the next A&S Committee.

continued ...

I shall assume that this matter is concluded unless I hear from you in writing within the next 5 days.

Yours sincerely



**Lukman Patel
(Monitoring Officer)**

cc Pat Higginbottom

~~XXXXXXXXXX~~

Appendix 11 ■

■
Sent: 13 July 2018 15:07

To: Lukman Patel; Chris Gay
■

Subject: Councillor Alan Hosker (came to see you) - 13th July 2018

Hello Lukman & Chris

Councillor Hosker rang from the Town Hall Reception Desk, hoping to come and see you, Lukman. However, as you were out at offsite meetings and Chris on leave, he asked me to advise you of the following:

- Letter received. No further statement/comments to make.
- Complaint dealt with by LCC. They are happy with the outcome, following an interview.
- Councillor Hosker will make a public apology at County Hall during a meeting (live TV). He won't be apologising for doing it but because it was shared on his site without his permission.
- It seems to Councillor Hosker that LCC is saying one thing and Burnley Borough Council another. 'As LCC is higher up', he feels like it's a witch hunt by Burnley Borough Council.
- If Burnley Borough Council wants to take the matter further, he will direct it to the public (who showed they were on his side when it appeared in the papers), instruct a solicitor and sue for costs.

■
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Agenda Item 51

Appendix 12.

Councillor Alan Hosker
2 Bright Street
Padiham
Burnley
BB12 8RA

Private and Confidential

FAO Mr C Gay
Performance and Committees Manager
Burnley Borough Council
Town Hall
Manchester Road
Burnley
BB11 9SA

Your Ref: LP/15117CllrHosker
Date: 15th July 2018

Dear Mr Gay,

Thank you for your recent correspondence. Having now fully read your draft report I wish to make the following comments.

1. In your reasoning you state that the *"explanation provided is plausible but weak"*. I can only give you the explanation as it is which is backed up by the fact that [REDACTED] provided written confirmation of this.
2. In the resolution agreed between us in November of last year it was agreed that I would stop [REDACTED] from accessing the page, I would purchase audio equipment at my house and issue an apology and this is what I have done.
3. I did not post the content and have proof of this in the fact the person who did has provided written confirmation to you.
4. I'm sorry but I disagree with this statement.

"The fact that [it] happened, and was made possible, outweighs how it happened i.e. who was responsible for the physical act of sharing the video."

I was physically ill and did not share the content. However I did need to keep my other pages (business page) active as it is not only the Alan Hosker Borough and County Councillor page that I run. That is why my password was available to [REDACTED] as the password for Facebook allows access to all pages. This is something out of my control.

5. Once I saw the video I immediately took it off.
6. Burnley Borough Council have taken this matter seriously and rightly so. Lancashire County Council have also taken the issue seriously. Both investigations are to be carried out in an objective manner and therefore it would be odd if they both arrived at a different conclusion, especially considering that the Code of Conduct for both are near on identical. I therefore believe LCC's findings are relevant.

Lancashire County Council have asked me for a number of actions, primarily an apology in front of the Full Council at the next meeting. I have accepted this as it is the right and proper thing to do. I would expect something similar at Burnley.

Anything other would indicate that this is political, rather than procedural which is based purely on the Code of Conduct.

In light of this I look forward to our next meeting and thank you for your time.

Yours Sincerely

Alan Hosker

Cllr Alan Hosker
Borough Councillor for Hapton with Park

GREENWOOD, Joanne B [REDACTED]

Sent: 16 July 2018 14:29

To: Chris Gay

Subject: Complaint

Good afternoon Chris,

Sorry for the delay in responding I have been away for a few days. Thank you for your report I found it to be really thorough and am pleased with the findings. I'm happy for the report to go forward as it is to the Monitoring Officer without any further to add.

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Agenda Item 5n

Chris Gay
Deputy Monitoring Officer
Burnley Borough Council
Town Hall Manchester Road
Burnley, Lancashire BB11 9SA
Tel: 01282 477163
Email: cgay@burnley.gov.uk

Private & Confidential

Councillor A Hosker
2 Bright Street
Padiham
Burnley
BB12 8RA

Our Ref
Your ref
Date 1st August 2018

Dear Councillor Hosker,

Re Complaint: Facebook Post

Thank you for your representations of 15th July 2018 in response to my draft investigation report regarding the above. In response to these representations my observations are as follows:

Point 1. This point is noted.

Point 2. The local resolution is clear and was not limited to [REDACTED].

Point 3. This point was made in your original representations, and again is noted here.

Point 4. Your disagreement is noted.

Point 5. This point is covered in 7F of the draft investigation report.

Point 6. As set out in the draft investigation report both Burnley Borough Council and Lancashire County Council (LCC) are different organisations. I am not privy to all the information that LCC have considered, including whether or not they have considered

any past misdemeanours. I am also satisfied that I have carried out this investigation independently and free from any political bias.

I have now appended your latest representation and my observations into the investigation report appendices (App12 and App14 respectively).

Also included in Appendix 11 is a summary record of your initial representations provided by phone call for Lukman Patel on receipt of the draft investigation report on 13/07/18.

I have noticed that your representations in the form of a summary record of phone call message for Lukman Patel on 12/06/18, and email dated 13/06/18 were omitted in the original report draft (11/07/18); these too have now been appended in App 4 and App 6 respectively for your reference.

If you have any further comments you wish to make regarding the additional representations as set out above I would be grateful if you would provide written comments to me within 5 days in order that they can be considered. After this time my final report will be submitted to the Monitoring Officer for consideration. No changes have been made to the narrative within the draft report of 11/07/18 beyond the inclusion of these appendices.

Please note that all information and matters relating to this investigation including all information provided in the report and the associated appendix must be treated as strictly confidential. You will note that some personal information has been redacted.

Yours sincerely

Chris Gay
Deputy Monitoring Officer