

Standards Committee

12 December 2017

CODE OF CONDUCT MATTER

EXEMPT/CONFIDENTIAL ITEM

No

1. Purpose

- 1.1 This report introduces an investigation report (Document 1) which the Council's Deputy Monitoring Officer ("DMO") has prepared and which sets out details of twelve complaints received regarding the behaviour of Councillor S Gomez-Aspron (Cllr GA) and the information which the DMO has gathered in relation to the complaints.

2. Background

2.1 The Complaints

- 2.2 Between November 2016 and September 2017, a number of complaints were submitted to the Council's Monitoring Officer ("MO"), Peter Hughes, in respect of Councillor Gomez-Aspron, one of the local Councillors for the Newton Ward. He was the Cabinet Member for Green Smart & Sustainable Borough for part of this period up to May 2017. He has been the Council's Armed Forces Champion since July 2017.

- 2.3 The complainants are members of the public who live in different parts of the Borough. The majority of the complaints relate to Councillor Gomez-Aspron's use of social media. One complaint relates to an alleged incident of damage to the complainant's house shortly after submitting their complaint about his social media activity to the MO.

- 2.4 The complaints relating to social media use include alleged inappropriate and disrespectful comments, use of swear words, emojis (pictures) and emoticons (version of a smiley face). There are a total of 12 complaints that the Standards Committee is being asked to consider.

3. The Independent Person

- 3.1 The Standards regime introduced by the Localism Act 2011 is meant to be a light touch process in comparison to the regime which preceded it. One of the requirements, however, is that the Council must appoint an Independent Person who has no connection with the Council and whose views must be sought and taken into account by the Committee before it reaches a decision on the allegations which have been the subject of an investigation. The Independent Person may also be contacted by the elected member who is the subject of a complaint to seek their views.

- 3.2 In this case, the Independent Person, Ms Caroline Kelly, was informed that complaints had been received which were being investigated. She was subsequently provided with a copy of the DMO's report and the appendices.

- 3.3 She will submit her views in relation to the complaints and her submission will be forwarded to Councillor Gomez-Aspron and members of the Standards Committee as soon as it is received.
- 3.4 It is understood that, to date, Councillor Gomez-Aspron has not contacted the Independent Person regarding this matter.
- 3.5 Members must consider the submission of the Independent Person and take it into account before reaching any decision.

#### 4 Procedure

- 4.1 Members may recall that the Committee reviewed and approved a procedure which covers how complaints about elected members are handled at a meeting in July 2016. This procedure includes a section dealing with the process by which complaints which are referred to the Committee are considered. A copy of the procedure is included as an appendix to the investigation report. It is a matter for Members to determine if they wish to exercise discretion by enabling oral submissions to be made. If Councillor Gomez-Aspron submits any further written comments for consideration, they will be provided to Members at the earliest opportunity when received.

#### 5 Conclusion

- 5.1 There have now been several occasions when comments on social media, apparently by Councillor Gomez-Aspron, have given offence to a number of people, some of whom have submitted complaints.
- 5.2 As far as can be ascertained, Cllr Gomez-Aspron does not deny being responsible for the comments in his name contained in these complaints.
- 5.3 The Council's current and former Monitoring Officer have both had cause to give Councillor Gomez-Aspron advice on previous occasions regarding his use of social media as a result of complaints received. On occasion, where appropriate, complaints have been able to be resolved informally without the need for further investigation. Details include:
  - 5.4 June 2014 – the former MO discussed a complaint about his use of social media with Councillor Gomez-Aspron. He indicated then (June 2014) to the former MO that he did not intend to use Facebook, except as a way of keeping in touch with old friends.
  - 5.5 July 2014 – Councillor Gomez-Aspron gave a written assurance to a previous complainant that he would not make comments about him on social media which put him at any personal risk or publish details such as his address.
  - 5.6 Councillor Gomez-Aspron indicated he intended to limit his use of Facebook to just keeping in touch with "university chums". MO urged Councillor Gomez-Aspron to limit his activity on Facebook to this type of interaction and not become involved in "pointless discussion forums".

13 October 2016 – Email sent to Councillor Gomez-Aspron from the MO regarding complaint (Appendix 2: page 2/3).MO gave advice not to rise to comments made by public on social media.

- 5.7 16 February 2017 – Meeting held with Councillor Gomez-Aspron and the MO regarding a complaint (para 3.4: page 2).Verbal advice from the MO regarding his use of social media. Councillor Gomez-Aspron advised to avoid making comments on social media that could be described as provoking reaction by deliberately winding up members of the public.
- 5.8 The Council's Standards Committee has previously upheld a complaint alleging Councillor Gomez-Aspron to have breached the Code of Conduct for Members due to his use of social media. On 5th January 2015, the Committee censured him (formal reprimand) and strongly recommended him to apologise to the complainant. He provided a written apology to the complainant.
- 5.9 In addition, it was brought to the MO's attention, by members of the public that Councillor Gomez-Aspron had posted comments on Newtonian Network on 6<sup>th</sup> and 7<sup>th</sup> December 2017. A copy of the screen shots are attached at pages 794 to 816. The public indicate they feel he is treating the process with contempt, not taking it seriously and treating it as a joke. Some of the comments could be considered as 'goading' some of the complainants and perhaps seeking to provoke a response.

## 6 Recommendation

- 6.1 Members are asked to consider the following documents:
- (i) Document 1, which is the report of the Deputy Monitoring Officer, together with its appendices
  - (ii) Document 2, which is the submission made to the Committee by the Independent Person
  - (iii) Any submissions made by Councillor Gomez-Aspron or made upon his behalf
- 6.2 If Members reach the conclusion that a breach of the Code of Conduct has occurred, the Committee may consider whether it wishes to censure the elected member or refer the matter to Council to consider censuring the elected member. There is limited action now available to Councils in dealing with breaches of the Code of Conduct.

Peter Hughes Monitoring Officer

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