

Subject:	Hearing of an allegation that a councillor has failed to comply with the Code of Conduct for Members		
Date of Meeting:	Monday 6th February 2017 at 2pm		
Report of:	The Monitoring Officer		
Contact Officer:	Name:	Elizabeth Culbert, Acting Head of Legal Services	Tel: 01273 291515
	Email:	Elizabeth.culbert@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report concerns an allegation that Councillor Robert Nemeth has failed to comply with the Code of Conduct for Members.
- 1.2 This complaint has been referred to the Standards Panel by the Monitoring Officer in accordance with paragraph 6.1 of the Council's Procedure for Dealing with Allegations of the Code of Conduct for Members. The complaint is for the Panel to determine.

2. RECOMMENDATIONS:

- 2.1 That this Panel determine the complaint that Councillor Nemeth has failed to comply with the Code of Conduct for Members by finding either i) that he did fail to comply with the Code of Conduct in one or more respects, ii) that he did not fail to comply with the Code of Conduct for Members, or by iii) making no finding in respect of the allegations.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The complaint concerns a comment posted on Councillor Nemeth's twitter page on 19th July 2016. It was the subject of a complaint on 9th September 2016 made by Councillor Morgan, who considered it to breach of paragraphs 1.1 and/or 1.2 of the Code of Conduct for Members, which forms part of the Council's Constitution.
- 3.2 That complaint was received in by the Council's Monitoring Officer who - following consultation with one of the Council's Independent Persons - referred the complaint to Victoria Simpson, Locum Corporate Lawyer, to investigate.
- 3.3 The Final Report appended here is the outcome of that investigation. It includes analysis and findings regarding conduct which occurred during the investigative process as well as consideration of the conduct which gave rise to the complaint.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The Panel will wish to consider the evidence which was accumulated during the investigative process. During the hearing, it may explore both that evidence and the analysis and findings arrived at regarding it by the Investigating Officer, as well as hearing submissions from the member who is the subject of the complaint.
- 4.2 The Panel will note that the Investigating Officer's findings indicate that on the evidence available to her at the time of writing she considered on balance that breaches of both paragraphs 1.1 and 1.2 had occurred. The Panel is however free to reach its own findings on the evidence regarding the matters complained of.
- 4.3 Having heard the complaint, the Panel will wish to determine the complaint that Councillor Nemeth has failed to comply with the Code of Conduct for Members by either i) finding that he did fail to comply with the Code of Conduct in one or more respects, ii) finding that he did not fail to comply with the Code of Conduct for Members, or by iii) making no finding in respect of the allegation.
- 4.4 If the Panel finds one or more breaches, it may decide what action if any to take in respect of the member who is the subject of the complaint.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 None.

6. CONCLUSION

- 6.1 The options available to the Panel are outlined above.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 None.

Legal Implications:

- 7.2 The legislative framework under which the allegation has been investigated and referred to the Standards Panel for determination is provided in Part 1, Chapter 7 of the Localism Act 2011.

Equalities Implications:

- 7.3 None.

Sustainability Implications:

- 7.4 None.

Any Other Significant Implications:

7.5 None.

SUPPORTING DOCUMENTATION

Appendices:

1. The Investigating Officer's final report, together with appendices.
2. Procedure for the Hearing

Documents in Members' Rooms

1. None.

Background Documents

1. None.

FINAL REPORT

Subject Member: Councillor Robert Nemeth

Complainant: Councillor Warren Morgan

This Report represents the findings of an investigation carried out under Brighton & Hove City Council's arrangements for dealing with allegations of breaches of the Members' Code of Conduct under the Localism Act 2011.

The investigation has been carried out by Victoria Simpson, Locum Corporate Lawyer, on behalf of the Monitoring Officer for Brighton & Hove City Council, into allegations relating to Councillor Robert Nemeth. It may be presented to a Standards Panel for hearing and determination.

DATE: 7th December 2016

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Executive Summary

- 1.1 On 9th September 2016, Brighton & Hove City Council received a complaint from the Leader of the Council, Councillor Warren Morgan ('the complainant'), regarding a comment posted on the twitter page of Councillor Robert Nemeth ('the subject member') on 19th July 2016.
- 1.2 The complaint is appended here as **Appendix A** while the comment and the post which gave rise to it are appended as **Appendix B**. The subject member's conduct during the course of this investigation gave rise to additional concerns which are explored in the body of this Report.
- 1.3 This Report describes the reasoning whereby the Investigating Officer reached findings on the evidence available to her at time of writing and the basis on which she on balance finds that breaches of paragraphs 1.1 and 1.2 of the Code of Conduct for Members have occurred.

2.0 Relevant legislation and the paragraphs of the Code of Conduct which may apply

- 2.1 Brighton & Hove City Council has adopted a Code of Conduct for Members in accordance with the Localism Act 2011.
- 2.2 This investigation is carried out under Brighton & Hove City Council's arrangements for dealing with allegations of breaches of the Code of Conduct for Members.
- 2.3 The complaint which is the subject of this Report was initially considered by the Monitoring Officer for Brighton & Hove City Council in accordance with the authority's Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members. After making preliminary enquiries and having consulted with the Independent Person, the Monitoring Officer took the view that the complaint should be investigated and instructed Victoria Simpson, Locum Corporate Lawyer, to carry out that investigation.
- 2.4 The paragraphs of the Code of Conduct which are considered to be relevant to the allegation are as follows:

Paragraph 1.1: Members must behave in such a way that a reasonable person would regard as respectful.

Paragraph 1.2: Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

3.0 The context and focus of this investigation

- 3.1 The Council has in place a Libraries Modernisation Programme which aims to ensure a sustainable future for Library Services in Brighton & Hove whilst delivering anticipated savings of £0.309 million in 2016/17 and further savings of £0.742 million over the period 2017/18 to 2019/20 to reflect the anticipated budget reduction for the Libraries Service.

- 3.2 Having conducted a library service review and needs analysis and engaged in public consultation, officers of Brighton & Hove Council sought to present members with the results of those and to present a proposed Libraries Plan for 2016-2020.
- 3.3 Officer reports detailing the suggested proposals were put before members of the Council's Economic Development and Culture Committee on 10th March 2016 ('ED & C') and before the Policy, Resources & Growth Committee on 9th June 2016 ('P, R & G'). Both those committee meetings were chaired by the complainant, Councillor Warren Morgan, who is the Council's Leader.
- 3.4 The detailed proposals for Brighton and Hove Council's libraries which were debated at the above two Council meetings (and, following ED & C, by full Council on 24th March 2016) are not the subject of this complaint. However the debates which took place on this topic are considered to form the context of the twitter post which is the subject of the complaint. This is because the relevant post on social media claims that the subject member has '*personally witnessed*' (my emphasis) the complainant 'lying about about Hove library'. This reference to having personally witnessed the behaviour referred to in the twitter post has been read as describing behaviour which occurred when both the subject member and the complainant were physically present in the same room, discussing the topic of Hove library. In this context, and to this degree, the minuted comments made at the committee meetings referred to in 3.3 are relevant.

4.0 The complainant's version of events

- 4.1 As well as outlining his concerns in his complaint (**Appendix A**), the complainant elaborates on these more fully in the statement which is attached here as **Appendix C**, alongside his case pack, **Appendix D**. Together they comprise the complainant's version of events.
- 4.2 The case pack referred to above provides detail regarding the complainant's role in the meetings of the Council which the subject member is considered to be referring to in his comment. It evidences the complainant's position, which is that he denies misleading either committee members or the public at either meeting referred to in 3.3 above in relation to the issue of Hove Library and asserts that the subject member's comment on social media is entirely unjustifiable.
- 4.3 In his statement, the complainant focuses on the conduct which is the subject of this complaint. He alleges that the post on twitter was derogatory and abusive as well as disrespectful to him and that it had potential to create a negative impression of the conduct of councillors and therefore potentially brought that office and/or the Council into disrepute.
- 4.4 The complainant also articulates the view that Councillor Nemeth acted inappropriately by not tagging the complainant's twitter name to his own comment (or otherwise alerting him to it) so as to give him a 'right of reply'. The complainant considers that it was as a direct result of this that he was not aware of the subject member's published comment until the date on which he made his complaint and so was not afforded an opportunity to refute it at an early stage.

4.5 In addition, the complainant argues that if Councillor Nemeth believed that he, Councillor Morgan, had lied, then he should have made a complaint using the Council's standards process which has been set up with the express purpose of determining complaints fairly. Choosing instead to make comment using social media is considered by the complainant to potentially constitute conduct amounting to a breach of the Code of Conduct.

5.0 The subject member's response to the complaint and his actions during the investigation

The subject member's response to the Investigating Officer

5.1 It has not been possible to explore with the subject member his position in relation to the complaint. This is because - having initially acknowledged receipt of the complaint and described the evidence he wished to rely on in broad terms by telephone - he declined to supply that evidence or to provide further details of it to the Investigating Officer during the course of this investigation.

5.2 The written communications on this topic between the subject member ('the SM') and the Investigating Officer ('the IO') are appended to this Report as **Appendix E**.

Information made available by the subject member outside this investigative process

5.3 The email exchange of 10th November included in **Appendix E** is noteworthy as it indicates that the comments attributed to the subject member in an article in the Argus are agreed by the subject member.

5.4 The comments published in the Argus - taken with the brief indication given by telephone by the subject member - provide the basis for the assumption made in this Report that Councillor Nemeth does not deny posting the comment which is the subject of this complaint on twitter and instead stands by it, believing his comment about the Leader to be justified. The basis for that justification as reported by the Argus is that the complainant (and 'the Labour party generally') stated that seven libraries would close if Hove Library stayed open. The fact that both Hove library remained open as did the seven other libraries was cited by him as evidence that Councillor Morgan was lying during the campaign; moreover engaging in 'scaremongering'.

5.5 While the subject member indicated initially to the Investigating Officer that he had acquired evidence to substantiate his contention that his comment was justified, this investigation was necessarily conducted within the limitations of the information which the Investigating Officer was able to identify without the subject member's assistance.

5.6 The subject member's refusal to provide details of the evidence which he seeks to rely on to this investigation has been noted in some detail above, as has the fact that the substantive information regarding his position was adduced from a report in the local paper. This situation gives rise to a further concern, namely that the fact that the direct quotations are agreed by him indicate that while unwilling to co-operate with this investigation he was willing to detail his position to the local press.

- 5.7 Moreover at a late stage in the investigation it was noted that the subject member had been interviewed on Latest Homes TV (a local news channel) on a programme called The Vote published online on 15th November 2016. During that interview, the subject member discussed this complaint and outlined his position in relation to the allegations. That interview is available at: https://www.youtube.com/watch?time_continue=3&v=yalt-Zy8-GY.
- 5.8 In that interview, the subject member indicates that he will adduce at the Standards Panel hearing an election leaflet generated by the Labour Party which refers to the closing of seven branch libraries. He produces and discusses the leaflet during the interview, stating initially that 'for all he knew', the complainant did not write it, before conceding that he did not know who wrote it.
- 5.9 It is noted in this context that it is not possible in any event for a written leaflet to substantiate a claim that someone has '*personally witnessed*' another person 'lying'. As noted in paragraph 3.5, to personally witness something, the subject member would have had to have been physically present in the same room as the complainant and seen him engaging in that conduct. On the subject member's own account of events that did not happen. As a result this leaflet cannot be capable of providing adequate justification for the comment which is the subject of the complaint.
- 5.10 In the aforementioned interview, the subject member then turns to comments published by Councillor Morgan in the Argus newspaper, citing comments to the effect that 'at least six libraries' were at risk as evidence for his contention that the complainant had lied. It is noted that the cited comments are consistent with the other statements which the complainant draws attention to in his case pack. However in any case, the subject member is again seeking to use as evidence written comments, which their nature cannot be 'personally witnessed' (unless the witness is present at the time of writing, which does not appear to be argued here).
- 5.11 It is considered that the subject member moreover represents himself to the interviewer as co-operating with this investigative process. When asked whether he has been asked questions with a view to 'defending' himself in relation to these proceedings, his response is in the affirmative and represents his conduct as being fully responsive: 'Yes well I've answered them as fully as I can'. When asked, he indicates that he has responded to questions in this process by referring to his 'red card': the Labour leaflet which he produces and discusses during the interview. However those representations are not considered to be consistent with his conduct during the investigative process leading up to the interview given that he did not respond to repeated requests from the investigating officer that he confirm his position in writing, this while declining to disclose details of either this specific leaflet or indeed other specific information relating to the evidence he wished to rely on.
- 5.12 On at least two occasions, then, the subject member has seemingly provided an account of his actions to the media despite being specifically discouraged from seeking to publicise the complaint until such time as it was determined: a request made to the subject member in the Investigating Officer's very first letter to him

on 20.9.16 (as it was to the complainant), this in accordance with the Procedure for Dealing with Allegations of Breaches of the Code of Conduct for members.

- 5.13 The subject member's apparent conduct in making public his position in contravention of the request made to him that he refrain from seeking to publicize the complaint falls to be considered against the provisions of the Code of Conduct, this in the context of his refusal to co-operate with the request for evidence made during this investigation. So too do his representations during the Latest TV interview regarding his actions during this investigative process. This is because that conduct also has potential to amount to a breach of paragraphs 1.1 and/or 1.2 of the Code of Conduct.

6.0 Reasoning regarding whether there have been failures to comply with the Code of Conduct

The post on twitter on 19th July 2016

- 6.1 In order to consider whether the relevant post on social media - made without the complainant's knowledge - amounts to a failure to treat a fellow councillor with respect, it is necessary to focus on the words used in the comment.
- 6.2 While the dictionary definitions of the verb 'lying' differ slightly, they generally describe an activity associated with the purposeful (not accidental) dissemination of information which the person lying knows to be untrue, as in the following definition: 'to speak untruthfully with intent to mislead or deceive, or to convey a false impression or practise deception' (<http://www.collinsdictionary.com/dictionary/english/lie>) The allegation of lying, then is highly derogatory as it imputes that the individual concerned has acted to deliberately mislead or deceive others.
- 6.3 Where any member is proven to have lied in the Council or one of its committees, their conduct has potential to amount to a breach of those provisions of the Code of Conduct for Members which prohibit members from acting in a way which could reasonably be regarded as bringing their office or authority into disrepute. It would also constitute a failure of those of the seven principles of public life which frame the Code and require members to conduct themselves with integrity, openness and honesty in their public life. For this reason, imputing that an elected member has lied is a serious matter.
- 6.4 The complainant is mindful of the above and in this context draws attention to the information which he relied on when making statements on the subject of Hove library, namely the publicly available officer reports which outlined the options for future library provision. It is noted that in his case pack, reference is made in officer papers to both the Economic Development and Culture Committee of 10th March 2016 ('E, D&C') and to the Policy, Resources and Growth Committee of 9th June 2016 ('P, R&G'). The papers to P, R & G refer to the need to find savings within the library service which were equivalent to '5 to 7' or an 'estimated between 5 and 7' community libraries. The paper to E, D&C (as well as the Library Plan appended to it) meanwhile refers to the potential savings achieved by relocating Hove library as being for comparison purposes the same as 'at least seven community libraries'. Those assertions are reflected in the complainant's statement as well as being mirrored in his closing statement to

Policy, Resources and Growth Committee, where he speaks of putting decision-making on hold and working together to find a solution which does not 'lead to the closure of up to seven local community libraries'.

- 6.5 While the complainant has proactively provided information regarding the written statements he has published on the above topic, the fact that the subject member states (as discussed in para 3.5 above) that he personally witnessed the conduct means that that information is not of direct relevance here.
- 6.6 More relevantly, I do not consider that the fact that no libraries have closed despite the Committee decisions to be capable of providing a sufficient degree of proof that the complainant 'lied' in his earlier statements. Demonstrating that a person has spoken untruthfully with intent to mislead or deceive, to convey a false impression or to practise deception, is no simple matter. It requires evidence to be adduced which demonstrates that that person has both a) acted in manner which is false or untruthful and b) done so with the intention of misleading or deceiving others. I have not had sight of any evidence of either untruthfulness or intention to mislead others on the complainant's part. I note that at the end of P, R & G the complainant flagged up his intention to work to find a solution which did not reflect his preferred course. Neither in his comments at this point or at any other have I had sight of evidence of any description which might potentially satisfy either a) and/or b) above.
- 6.7 In the absence of evidence that Cllr Morgan "lied", then, there can be no prospect of the subject member justifying his conduct in making the relevant comment. I will now focus on the post on social media. While not made during a formal meeting of the Council, it was made via a mode of communication which the subject member uses amongst other things to make political comment. The question then becomes whether a social media post with such content is capable of amounting to a breach of the Code of Conduct. In my view it is.
- 6.8 Given the responsibilities of elected members to uphold their office with integrity and to represent their constituents faithfully and transparently, it is clearly key that they exercise honesty and professionalism in all activities associated with their office. While asserting in any forum that another person has lied is unlikely to be appropriate except in the most exceptional of circumstances, imputing dishonesty in a fellow elected member in my view has a particularly negative resonance given the nature of elected office and the key importance of public trust in that context.
- 6.9 Given the above, there can be no argument that a comment of the type made might appropriately be deemed to be part of the cut and thrust of political debate given that it goes to one of the core attributes which the public expects to see in its elected officials: honesty and integrity.
- 6.10 I agree with the principle that comments which allege dishonesty in a fellow member contravene the expectation that publicly elected councillors will treat each other with respect and courtesy. Such comments potentially damage the perception which the public has of elected officials.

- 6.11 While I note that the subject member has over 3,300 followers on twitter, I have not tried to assess the degree to which the relevant post - on a publicly accessible page - drew attention from the public. It is more relevant to note that it is well-established that posting a comment on social media is a type of publishing like any other.
- 6.12 That said, the question of whether not alerting the party who was the subject of the derogatory comment in this context is an exacerbating factor is less clear. The complainant feels that it denied him a 'right to reply'. However I have seen no evidence that expectations in this regard in the (less regulated) context of social media are the same as in print media. As a result, I do not consider that failing to alert the complainant to the comment made about him at the time of its making is an issue in itself.
- 6.13 The complainant cites the Social Media Protocol for Members in his statement. While that Protocol does not bind members in the way that the Code of Conduct does, it aims to complement the Code and to provide guidance regarding what is and is not acceptable social media usage and to that degree is nonetheless relevant.
- 6.14 I note that the Protocol was recently reviewed. As a result all members should be aware of its contents which amongst other things draw attention to the fact that posting online is a form of publishing and is subject to the same rules as other types of written and also oral communication.
- 6.15 Under a subheading 'you must treat others with respect', the Social Media Protocol explicitly warns against the usage of social media to make personal attacks or indulge in rude, disrespectful or offensive comments. Elsewhere it also suggests that - although social media may be a legitimate vehicle for political pointmaking - then unless care is taken, specific or personal attacks on individuals may be seen as disrespectful.
- 6.16 While the provisions of the Protocol explored above are relevant, the conclusions drawn in relation to the evidence before me concern the Code of Conduct and my assessment of the information known to me in the light of it.

The subject member's conduct during the investigation

- 6.17 The subject member's conduct in making public the details of the complaint and his position via local media whilst failing to co-operate fully with this investigation falls to be considered separately.
- 6.18 The Code of Conduct for Members forms part of the Council's Constitution and adherence to it and to the arrangements made under it – including the Procedure for Dealing with Allegations of the Code of Conduct for Members - is expected of all councillors. Acting contrary to established expectations that councillors will treat the Council's own rules and procedures with appropriate respect is considered to be behaviour which might potentially be viewed by a reasonable onlooker as lacking respect for the processes which the Council has democratically agreed to put in place to govern its affairs.

6.19 It is moreover noted that – in acting against the request that he refrain from seeking publicity before this complaint had been determined - the subject member appears to have engaged in behaviour which effectively made public his position during the investigative process. This is to be contrasted with his position in a) electing not to comply with requests that he confirm and clarify his position in writing and b) his decision not to disclose the evidence he seeks to rely on prior to any panel hearing so as to facilitate a Report which reflects the input of both parties. Finally, it is noted that the impression given by the subject member in a publicly broadcast interview was that he had answered questions posed of him during the investigation ‘fully’: an assertion which is not considered to be consistent with his behaviour.

7.0 Findings

7.1 The fact that the Council’s procedures for dealing with member complaints were not used as a channel for the subject member’s concerns is noted. However in my view that conduct does not in itself amount to a breach of the Code of Conduct for Members.

7.2 However on the evidence available to me at time of writing, and in the absence of substantive evidence from the subject Member, I find on balance that there is evidence that the following breaches of the Code of Conduct have occurred.

7.3 It is my view that the comment posted on the subject member’s twitter account on 19th July 2016 is both conduct which a reasonable person would regard as disrespectful of the complainant and conduct which could reasonably be regarded as bringing both the subject member’s office of councillor and the authority itself into disrepute. I therefore find that on balance it constitutes a breach of both paragraphs 1.1 and 1.2 of the Code of Conduct.

7.4 It is moreover my view on balance that the subject member’s conduct in making publicly available via local media a degree of detail regarding his version of events which he was not prepared to supply in response to requests made during this investigation in accordance with the Council’s own processes indicates a lack of respect for the Council to which he has been appointed as an elected member. That conduct is therefore considered to breach paragraph 1.1 of the Code of Conduct. Combined with the giving of a less than accurate impression regarding his responsiveness during the investigative process during the Latest TV interview referred to in paragraph 5.7 above, it is moreover considered to potentially bring the authority and/or the office of councillor into disrepute and as a result to constitute a breach of paragraph 1.2.

7.5 For the reasons outlined in paragraph 7.4, I find on balance on the evidence available to me that the subject member’s conduct during this investigative process has been such as to constitute breaches of paragraphs 1.1 and 1.2 of the Code of Conduct for Members additional to those noted in paragraph 7.3 above.

APPENDIX A – the complaint

-----Original Message-----

From: Warren Morgan

Sent: 09 September 2016 2:54 PM

To: Abraham Ghebre-Ghiorghis

Subject: Code of conduct complaint CONFIDENTIAL

Importance: High

Dear Abraham,

I would like to register a formal complaint against Cllr Robert Nemeth regarding a statement he made on social media in July but which was brought to my attention today.

On 19th July in reply to a comment from Greg Hadfield, Cllr Nemeth stated that he had "personally witnessed Cllr Morgan lying about Hove Library".

https://twitter.com/robert_nemeth/status/755429994667634688

Cllr Nemeth did not use my Twitter address so I was unaware and unable to challenge this comment. I would argue in the strongest terms that I conducted myself throughout the Hove Library discussion in good faith, and never knowingly misled or lied to members in that process. If he felt that I had he should have presented evidence to you as Monitoring Officer as part of a Standards Complaint.

I would argue that Cllr Nemeth has breached the Members Code of Conduct under General Obligations 3.1 "You must treat others with respect", and 5. "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute."

Accusing a member, particularly a council leader, of deliberately and purposefully lying during the course of a decision making meeting, is in my view a very serious matter and one that I would wish to pursue via a formal Standards Complaint.

If Cllr Nemeth cannot substantiate his comment then I will ask that a Standards Panel be convened. I will expect a deletion, retraction and public apology via the same medium.

Regards,

Warren.

Councillor Warren Morgan
Leader of the Council
Labour and Co-Operative Councillor for East Brighton

@warrenmorgan | warrenmorgan.wordpress.com

APPENDIX B – the post on twitter



Cllr Robert Nemeth [@robert_nemeth](#) Jul 19

[@GregHadfield](#) Having personally witnessed Cllr Morgan lying about Hove Library, I can certainly see how this sort of thing might happen.

- Retweets [2](#)
- Likes [4](#)

APPENDIX C – witness statement of the complainant

Statement of Warren Morgan, Leader of Brighton & Hove City Council **Agreed on 16.11.16**

I instigated a complaint that Councillor Robert Nemeth had breached the Code of Conduct for Members on 9th September 2016 having been alerted earlier than same day to a tweet he had posted on social media in which he stated that he had ‘personally witnessed’ me ‘lying’ about Hove library.

That comment was made on 19th July 2016 however I was not aware of it until alerted to it by a party colleague on the above date, some considerable time later. This was as a direct consequence of Councillor Nemeth having failed to ‘tag’ me or otherwise alert me to the existence of his comment. I consider this to be an issue in and of itself as it denied me the right to reply (which is normally available when comments are made in print) or to otherwise respond to being called a liar in a public forum.

I absolutely deny that there is any truth whatsoever in the comment made by Councillor Nemeth and append to this statement a case pack of evidence which substantiates my position. My key concern however is that Councillor Nemeth has breached the rules which are in place to ensure that elected councillors conduct themselves according to minimum standards and act professionally and transparently at all times. Amongst other things, Councillor Nemeth’s comment of 19th July on social media creates a damaging impression of local councillors’ behaviour toward each other and generally.

It is my view that Councillor Nemeth’s publication of a comment that a fellow councillor is a liar on social media is in direct contravention of the Code of Conduct for Members. It is not behaviour that a reasonable person would regard as respectful. In addition it is conduct which could be regarded as bringing the office of councillor and/or the Council into disrepute. To my mind, it directly contravenes the expectation that publicly elected councillors will treat each other with professional respect and courtesy. Engaging in robust exchanges on differences of opinion during democratic decision-making is clearly to be expected. However the conduct complained of involves making allegations of dishonesty by another person on a highly visible public forum without alerting the individual concerned and to that extent is lacking in transparency. If Councillor Nemeth genuinely believes his comment about me to be true (which it is not) and alleges that I deliberately misled a council committee by making intentionally false statements, which is his implication, then I would expect him to use the channels which have been set up to enable action to be taken against members instead of deciding to take matters into his own hands by posting on social media in the way he did. If he believed that I had lied, acted without integrity or otherwise breached the Code of Conduct for Members then he was free to make me the subject of a formal complaint to the Monitoring Officer using the Standards Procedure. Choosing instead to publish a comment online in a highly public forum in my view amounts to a breach of the Code of Conduct. It furthermore amounts to an attack on me which is personal and insulting and/or abusive as well as being negative and offensive and in my view is the sort of behaviour which the Social Media Protocol for Members warns against.

Appendix to Cllr Warren Morgan's statement - case pack

For the Standards Panel

This case pack details extracts from officer reports, meeting minutes and webcast recordings on the closure of the Carnegie Library, Hove. Reports and statements made during the meetings of the Economic Development and Culture Committee, the Policy, Resources and Growth Committee and Council Meetings have been looked at and documented below. Other information sources including Councillor Morgan's Wordpress blog and Brighton and Hove Independent column have also been looked at.

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1. Economic Development and Culture Committee

1.1 Thursday, 10th March 2016

1.1.1 Extracts from Agenda Item 46, Officer Report on 'Libraries Plan 2016-2020'

Context and Background Information:

3.4.10. The saving for the council of moving Hove Library to Hove Museum will be an estimated £350,000 per year, plus the on-going maintenance and repairs needed currently estimated at £750,000. If Hove Library remains in its current location, this saving will need to be found elsewhere within the library service.

3.4.11. For comparison purposes, at least seven community libraries would need to close completely to save the same amount of money.

1.1.2 Extracts from the Minutes of the Meeting

46.9 In response to the Chair, it was clarified that if the Hove Library didn't move to the Hove Museum site, the saving would be the equivalent to the closure of five to seven community libraries.

46.11 It was also commented that libraries resources should not be focused to central Brighton and Hove as services were needed across the city. Councillor Yates explained that if he would choose to move one library, instead of closing five to seven community libraries as it was important that residents across the city could retain library access.

1.2 Other Meetings 2015/16

Agendas and minutes from all other Committee meetings in 2015 and 2016 not outlined above were also considered and no relevant or additional information was found.

2. Policy, Resources and Growth Committee

2.1 Thursday, 9th June 2016

2.1.1 Extracts from Agenda Item 7, Officer Report on the 'Development of Library Services in Hove and Hollingbury'

Purpose of Report and Policy Context:

1.7 If the proposal to relocate Hove Library does not go ahead, a further report will need to be brought to the committee to agree alternative savings proposals for the Libraries Service. If the full savings are to be found in Library Services, this is likely to include a range of options including:

- Keeping Hove Library in the current building but on a much smaller scale and introducing income generating activity into the building. One version of this was looked at in the options appraisal as part of the business case. There would probably still be a savings gap of an estimated £85,000 so other library closures would still need to be considered alongside this option.
- Proposing the closure of community libraries to meet the full savings gap. The average cost of running a community library following the introduction of single staffing and other changes to the network is £38,731 including Corporate Landlord costs. If the staffing and book fund savings for Hove for 2017-18 go ahead, the savings that would need to be covered is £189,114 (see 4.1.2), so an estimated 5 to 7 community libraries would need to close.

Analysis and Consideration of any alternative options:

4.1.2 Keep Hove Library open and find the savings required of the library service from elsewhere within the libraries budget. All opportunities for savings or increased income are already being explored as part of the Libraries Plan, including reducing the costs of the Jubilee PFI, so the only other place to take the savings from would be community libraries. To find the £336,634 additional savings from within libraries without the proposed move of Hove Library could result in the closure of between 5 and 7 community libraries. This is based on the following:

Savings that can be delivered in current building, with operational and service changes	2016/17	2017/18	Total
Staffing savings	£69,296	£23,099	£92,395
Book fund savings	£30,100	£25,025	£55,125
Total	£99,396	£48,124	£147,520

Savings to be found elsewhere in Libraries budgets	£189,114
Average cost of running a community library (after changes to staffing being implemented this year)	£38,731, (of which, £27,719 is Libraries revenue and £11,012 is from Corporate Landlord budgets)

Equivalent number of community libraries to find £189,114 saving	Estimated between 5 and 7
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4.1.3 Most significantly, this option is not supported by the Needs Analysis that was carried out in 2015 and would be most likely to result in a judicial review, as it is possible that this level of library closure would not meet the council’s statutory duty to provide a comprehensive and efficient service.

Financial Implications:

7.5 The council’s Four Year Service and Financial Plan assume the delivery of the savings identified in this report. There remains a budget gap for the council’s budget overall and therefore, if the proposed changes to Hove Library do not go ahead, then alternative savings proposals will be required from the Library Service. Paragraph 1.7 of this report sets out potential alternative proposals of either reducing the size of Hove Library and introducing income generating activity alongside potentially closing 2 – 3 community Libraries; or keep Hove Library in its current form and closing between 5 and 7 community libraries.

2.1.2 Extracts from Webcast Recording

Cllr Morgan’s closing statement to the Committee included the following at 1:29:29:
“We will now, once again, put this decision on hold. We will work with you to somehow find a solution to this issue that does not inevitably, as the report makes very clear, lead to the closure of up to seven local community libraries. We will do that.”

2.2 Other Meetings 2015/16

Agendas and minutes from all other Committee meetings in 2015 and 2016 not outlined above were also considered and no relevant or additional information was found.

3. Council

There was no additional information noted from the Council meetings.

4. Further Documents

4.1 *Wordpress Blog*

Councillor Morgan's blog can be found at '<https://warrenmorgan.wordpress.com/>' and is written in his capacity as the Leader of the Labour and Co-operative Group, Brighton and Hove City Council.

4.1.1 **Extracts from Blog Post on 3rd June 2016**

'Officers have made very clear in the Libraries Plan and subsequent reports to committee that the necessary alternative course of action if the Carnegie was to remain open would be to close many of our branch libraries in Saltdean, Rottingdean, Hangleton, Patcham, Westdene, Woodingdean, Mile Oak, Moulsecomb, Coldean, Hollingbury, Portslade and Whitehawk. Our innovative plan has been designed to prevent that, I still want to prevent that and we will continue to try to work with the Conservatives and Green councilors to prevent that.'

'I'm very disappointed that it has come to this with the future of libraries across the city being placed at significant risk.'

4.2 *Brighton and Hove Independent*

Councillor Morgan's articles can be found at '<http://brightonandhoveindependent.co.uk/author/warrenmorgan/>' and are written in his capacity as the Labour Leader of Brighton and Hove City Council.

4.2.1 **Extract from Column on 18th March 2016**

'Even when told that keeping the current building would mean the closure of up to SEVEN of the city's other branch libraries they, and one Conservative councillor, voted against our ambitious plans for our libraries future. Another Conservative abstained.'

4.2.2 **Extract from Column on 15th April 2016**

'With the full business case for Hove Library re-provision coming forward to the same meeting [Policy and Resources Committee on April 28], we can ensure that a library service continues in every community where we currently run one by significantly reducing running costs.'

4.2.3 **Extract from Column on 3rd June 2016**

'If this [move of Hove Library] is blocked by the opposition parties then up to seven libraries in communities around the city could be under threat of closure.'

5. Conclusion

The financial implications of not proceeding with the move of Hove Library were stated clearly by officers in several reports that came to council. In committee and in public statements, I simply reflected those financial implications. However from the point that the decision was made not to go ahead with the move, I have been clear that the Administration would make every effort possible to close the significant budget gap by other means. The evidence provided here substantiates my position which is that there was no attempt to mislead either committee or public with regard to the issue of Hove Library and the city's branch libraries.

APPENDIX E Copy communications between the subject member and the Investigating Officer

CONFIDENTIAL – ADDRESSEE ONLY

Councillor Nemeth	Date:	20 th September 2016
(sent by email)	Phone:	(01273) 294687
	Fax:	(01273) 291545
	e-mail:	Victoria.simpson@brighton-hove.gov.uk

Dear Councillor Nemeth,

Notification of receipt of standards complaint

I am writing on behalf of the Monitoring Officer to inform you that Brighton and Hove City Council have received a complaint alleging that you have breached the Code of Conduct for members. The complainant alleges that by means of a comment posted on social media on 19th July 2016 and published online up to and including the present time you have breached paras 1.1 and/or 1.2 of the Code of Conduct for Members by failing to act in such a way that a reasonable person would regard as respectful and/or by conducting yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

I attach here details of the complaint that has been received in for you to consider. I also attach herewith a link to the Council's Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members as well as the Social Media Protocol for Members. As you will be aware, the latter complements the Code of Conduct for Members by providing guidance on how members may ensure that they observe that the Code is observed when using social media, although it does not form part of the Code.

You will note that the initial stage of the standards process requires the Monitoring Officer to make a preliminary assessment regarding what action if any should be taken to resolve the complaint. Since the complaint was received in on 9th September, the Monitoring Officer has made preliminary assessment of this complaint in conjunction with the Independent Person. He has determined that if proven the allegation has potential to amount to a breach of the Code of Conduct for Members and that on all of the facts it is in the public interest to formally investigate it. With this in mind he has appointed me to act as Investigating Officer in this matter.

The Procedure provides that you be given the opportunity to put your version of events and you will shortly be asked to provide an explanation (if you are minded to do so) regarding the post that has been complained of and to make any other submissions which you consider to be relevant to this complaint. The complainant's further input will also be sought before a Report is generated and circulated to all parties in draft, this

with a view to a final version of it being put before the Standards Panel. Further detail of the process is available in the attached Procedure.

Please be aware meantime that all parties are discouraged from seeking actively to publicise this matter until the complaint has been determined, whether by formal investigation or otherwise.

I shall keep you informed throughout the process. If you have any queries, please do not hesitate to contact me.

Yours sincerely,

Victoria Simpson, Locum Corporate Lawyer

**On behalf of
Abraham Ghebre-Ghiorghis, Monitoring Officer**

Appended to this email:

- Copy complaint with link to relevant Twitter page
- Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members
- Social Media Protocol for Members

Email from Robert Nemeth 20.9.16

Thanks – I look forward to hearing from you.

Cllr Robert Nemeth - Wish Ward

Brighton & Hove City Council

@robert_nemeth

[Exchange of emails relating to the appendices being put into a different format not included in this pack].

From: Victoria Simpson
Sent: 21 September 2016 11:59 AM
To: Robert Nemeth
Cc: Abraham Ghebre-Ghiorghis
Subject: RE: confidential matter

Dear Cllr Nemeth

Thank you for acknowledging receipt of the communications I sent you yesterday.

As indicated then, the complainant alleges that by means of a comment posted on social media on 19th July 2016 and published online up to and including the present time you have breached paras 1.1 and/or 1.2 of the Code of Conduct for Members by failing to act in such a way that a reasonable person would regard as respectful and/or by conducting yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute. The complaint is therefore expressed as relating to a standalone comment on twitter made from your account about a fellow member.

The procedure for dealing with complaints envisages that the Investigating Officer will give the member who is the subject of the complaint the opportunity to provide their explanation of events. I am happy to do this in whatever way you feel appropriate. You may wish to make written response to Cllr Morgan's complaint either in a preliminary way or with a view to your written representations being appended in full to the Report which I generate in due course. Alternatively or in addition you may wish to meet me to give your version of events in person. In either even, I will consider any evidence, written or otherwise, which you consider to be relevant.

My suggestion is that you provide your initial response to the complaint in writing, indicating whether 1) the twitter account from which the relevant post was made is yours, 2) if you admit posting the comment which is the subject of the complaint and if so 3) whether you consider(ed) it to be substantiated and if so how, as well as 4) your current position in relation to the posting and the complaint. Once I have that information, I will be in a position to discuss with you how best to proceed and to agree timeframes.

If you're in agreement with the above approach then perhaps you can let me know when you will be able to supply the above information. I should mention at this early stage that a member who is the subject of a complaint may consult if s/he wishes with one of the Independent Persons who is not otherwise involved in the complaint. If you would like me to facilitate this then please let me know.

Thank you in advance of your co-operation.

Yours sincerely,

Victoria Simpson | Locum Corporate Lawyer | Brighton & Hove City Council

Witness statement of investigating officer Victoria Simpson

I confirm that I received a telephone call from Councillor Nemeth on 21/9/16. He had received my email of earlier that same day and wished to discuss the complaint and the investigation.

During the course of the telephone call, I clarified the process which will be followed in determining this complaint and he clarified that he did not wish to take up the offer made in my letter of contact with one of the Independent Persons.

Councillor Nemeth indicated in very brief terms that he stood by the post he had made on twitter and that it arose out of a meeting of the Economic Development Committee. He considered his comment about Councillor Morgan to be justified and indicated that he would gather evidence to substantiate his case and would forward that evidence to me once he had done so.

Signed and dated VS

From: Robert Nemeth
Sent: 01 October 2016 12:04 AM
To: Victoria Simpson
Subject: RE: confidential matter

Hi Victoria

I have collected the following:

1. Witnesses statements from EDC meeting.
2. Article by Cllr Morgan.
3. Labour leaflet.

I have a number of offers from others who are keen to give evidence and could presumably find much more if I were to delve further.

Do the three items that I have listed sound appropriate for this stage in the process? I can provide them shortly, and much more in the future if it gets out of hand.

Thanks

Cllr Robert Nemeth - Wish Ward
Brighton & Hove City Council
@robert_nemeth

From: Victoria Simpson
Sent: 03 October 2016 9:47 AM
To: Robert Nemeth
Subject: RE: confidential matter

Dear Robert,

Thanks for your email. Can I confirm the following: that you agree the twitter account the posting was made was yours and that you posted it; that you believe your comment about Cllr Morgan to be substantiated and finally that you stand by your comment about him, believing it in your opinion to be true? There will be further questions which I'll need to put to you in due course about how your answers sit in relation to the Code of Conduct however most of those are best asked later on in the process. For the time being however perhaps you can confirm that you deny breaching the Code in the terms alleged?

I note that you have gathered evidence from the three sources below – thank you for that; I will certainly review it and ensure that it forms part of the evidence assuming that it is relevant, if you'd like to send it to me. I wouldn't recommend that you take any further steps to gather additional evidence until that has happened so that we can be sure that energies are being most appropriately directed. And as the investigator responsible for gathering the evidence, I'm obviously able to assist with this.

In terms of next steps, then, can I suggest that you forward to me the evidence you've collected thus far together with your response to the Qs posed in para 1 above? Once I've reviewed that we can discuss the best way forward.

Thanks in advance, Victoria

Victoria Simpson | Locum Corporate Lawyer | Brighton & Hove City Council

From: Victoria Simpson
Sent: 10 October 2016 5:05 PM
To: Robert Nemeth
Subject: RE: confidential matter

Dear Robert,

Can I check that you've received my email below please? I'm aware that you obviously have other priorities, however thought I should check that it hadn't gone astray.

It would be very helpful if in any event you could let me have your response in the next ten days if at all possible. If not however then please let me know.

Best regards,

Victoria

Victoria Simpson | Locum Corporate Lawyer | Brighton & Hove City Council

Email of 10.10.16 from Robert Nemeth

Yep. Will do my best.

**Cllr Robert Nemeth - Wish Ward
Brighton & Hove City Council
@robert_nemeth**

Email of 17.10.16 from Robert Nemeth

Hi Victoria

Assuming that I have understood the process properly, I think that I would prefer to give my evidence publicly at a later date. The more that I read through the various accounts and articles, the more that I am angry about this whole thing. People are fed up with lying politicians. They give us all a bad name.

**Cllr Robert Nemeth - Wish Ward
Brighton & Hove City Council
@robert_nemeth**

Email from IO 8.11.16

Dear Robert,

Thank you for your email of 17th October.

I note that it is your preference to give your evidence in person. It may be helpful if I clarify that if the matter is referred to a Standards Panel following my investigation then you will be able to make oral representations in any case. This is because – as you know - the objective of having a hearing is to provide both parties with the opportunity to make their respective arguments in full via a process which is as transparent as possible.

The information which is sought from you at this stage is requested not as an alternative to your giving evidence at a hearing – assuming that one is convened – but rather in addition to it. My aim at this stage is firstly to ask you to confirm in writing your position by answering the four questions posed in my emails of 21st September and 3rd October. When we first discussed this complaint, you indicated that you denied breaching the Code and that you believed your comment on twitter to be justified. Your written confirmation of this will enable me to clarify those key facts in my report. In addition, your co-operation in disclosing the evidence upon which you rely is the most reliable way of ensuring that the Panel has sight of all of the evidence you'd like them to see in an organised way. It will also ensure that any leads or questions raised by your evidence are followed up as appropriate in advance of the hearing. If you do not volunteer the evidence you have gathered together at an early stage then any Panel will have to decide as a preliminary matter whether to allow in all or part of your evidence: a question which will be for them to decide at the hearing.

Hopefully the above clarifies the situation. Your co-operation in this process is considered to be the best means of fleshing out the issues and ensuring that the best evidence is available to the Panel. It also helps ensure that the Panel's focus is on the actual issues raised by the complaint and the comment which gave rise to it.

If you do not confirm your responses to the questions I've asked at this point and I don't have sight of the evidence you have listed in your email of 1 October then the result will be an extremely brief investigative report which is unable to explore your version of events in any detail. If I don't hear from you by 12 noon on Monday 14th November, I will proceed on that basis. However if you take a different view and/or would like to discuss this email or any of the points raised in it then please do not hesitate to let me know before next Monday lunchtime. I'd be happy to discuss this with you.

Best Regards, Victoria

Victoria Simpson | Locum Corporate Lawyer | Brighton & Hove City Council

Email from Robert Nemeth 8.11.16

Hi Victoria

I appreciate your comments immensely but I would prefer to make my case orally if/when the time comes and if I attend.

Many thanks

**Cllr Robert Nemeth - Wish Ward
Brighton & Hove City Council
@robert_nemeth**

From: Victoria Simpson
Sent: 10 November 2016 11:00 AM
To: Robert Nemeth
Cc: Abraham Ghebre-Ghiorghis
Subject: RE: confidential matter

Dear Robert,

Thanks for your response – I note your position.

I do however have one further question arising from a recent article published in the Argus. Can I ask whether you are minded to confirm that the comments represented as direct quotes are correctly attributed to you?

I've cut and pasted the link and also the relevant comments below.

Best regards, Victoria

Victoria Simpson | Locum Corporate Lawyer | Brighton & Hove City Council

http://www.theargus.co.uk/news/14831180.Conservative_councillor_set_for_discipline_hearing_for_labelling_council_leader_a_liar/

[..]

Email of 10.11.16 from Robert Nemeth

Hi Victoria

Yes. That sounds right.

With best wishes

**Cllr Robert Nemeth - Wish Ward
Brighton & Hove City Council
@robert_nemeth**

