



STANDARDS PANEL DECISION NOTICE

Complaint Number COC090 Councillor Ewen Sinclair of Ledbury Town Council

On 25 September 2024, the Council received a complaint that Councillor Sinclair had failed to comply with the Code of Conduct of Ledbury Town Council. The complainant alleged that Councillor Sinclair has failed to observe the Code of Conduct for members, adopted by Ledbury Town Council.

Following initial assessment, the Monitoring Officer, having consulted with two of the Council's Independent Persons, decided that the matter should be formally investigated.

The events giving rise to the complaint are described in the investigation report dated 10 December 2024, completed by Deborah Nickson, Senior Governance Lawyer. The investigator concluded that Councillor Sinclair had breached the Code of Conduct of Ledbury Town Council.

The Monitoring Officer agreed with the investigator's findings and considered the options available to her upon completion of a formal investigation.

The Monitoring Officer's decision was that the matter could not be resolved in a way other than by a hearing. The Monitoring Officer consulted with two of the Council's Independent Persons, who agreed with this decision.

SCOPE OF INVESTIGATION

1. An incident on 17 September 2024 - The complainant alleged that Councillor Sinclair's conduct towards him, in an incident that took place on 17 September 2024, was disrespectful and harassing.
2. An email from Councillor Sinclair to seventeen recipients on 19 September 2024 - The complainant alleged that Councillor Sinclair's email dated 19 September 2024, to seventeen recipients, was in breach of the code of conduct since it disclosed confidential information, was disrespectful to him, and brought his role or local authority into disrepute.
3. An email from Councillor Sinclair to West Mercia Police on 20 September 2024 - In responding to the complaint, Councillor Sinclair provided to the Monitoring Officer copies of his communications with West Mercia Police, when he reported the incident to them on 20 September 2024. When considered alongside Councillor Sinclair's email to the seventeen recipients, referred to above, the Monitoring Officer was of the view that the Code of Conduct was further engaged.

STANDARDS PROCEDURE AT THE HEARING

(Please refer to the Minutes of the Standards Panel meeting.)

Present:

Councillor David Hitchiner (Chairperson)
Councillors: Robert Highfield and Frank Cornthwaite
Co-opted / Non-Voting Members:
Cllr Sam Potts (Parish Council Representative) and

Jake Bharier (Independent Person).

Complainant: Mr D Thomas accompanied by Mr J Thomas.

In Summary

Election of the Chair, Councillor David Hitchiner was proposed by Cllr Robert Highfield and seconded by Cllr Frank Cornthwaite to be elected as chairperson for the hearing.

It was noted that the subject member, Councillor Sinclair, was not in attendance. It was confirmed that Councillor Sinclair had been notified of the meeting, had received the agenda packs and papers both electronically and in hard copy and the Monitoring Officer had received correspondence from him to confirm he would not be attending and that he was content for the meeting to be in the public domain. The Panel received legal advice, to confirm that if the Panel were satisfied Councillor Sinclair had received the relevant papers and notice of the hearing and with reference to correspondence from Councillor Sinclair stating he was not attending, that the panel could proceed with the meeting without Councillor Sinclair present.

The Panel was satisfied that Councillor Sinclair had received the relevant papers and notice of the hearing and had sent correspondence stating he was not attending the meeting and were therefore in agreement to continue with the hearing in Councillor Sinclair's absence.

The Monitoring Officer advised the panel that the report and its appendices should not be exempt under Schedule 12A of the Local Government Act 1972 and provided her reasons.

The panel unanimously decided that the meeting should continue in open session, with a live recording and papers being made available for the public but agreed that once the meeting had concluded there would not be a recording available on the Council's YouTube page.

The MO introduced her report and indicated that she agreed with the investigator's findings, which included breaches of the Code of Conduct by Councillor Sinclair. The MO confirmed that she did not think the matter was suitable for resolution under her delegated authority other than referral to the standards panel and in reaching this decision she had consulted with two of the Council's independent persons, who agreed.

The senior governance lawyer (SGL) introduced her findings and report, the following principal points were noted.

In coming to her conclusions, the SGL used the evidence that was gathered in the form of; the written complaint, supporting statements / evidence, interviews, the subject member's and complainant's responses, the jurisdictional test and if jurisdiction was permitted, she considered from her findings if there had been a breach of the Code of conduct.

- In relation to the incident on 17 September 2024, after careful consideration of the law and guidance, the SGL found that Councillor Sinclair was not acting in his capacity as a councillor and concluded that the Council had no jurisdiction to consider this part of the complaint.
- With regard to the email from Councillor Sinclair to seventeen recipients on 19 September 2024, the SGL found Councillor Sinclair to be in breach of the code of conduct in terms set out in her report.

- Concerning Councillor Sinclair's email to West Mercia Police on 20 September 2024 the SGL found Councillor Sinclair to be in breach of the code of conduct in the terms set out in her report.
- The SGL confirmed that the draft report had been sent to Mr Thomas and Councillor Sinclair on the 20th of November 2024 and comments were received from each as described at Appendix 18 of her report.
- The comments were reviewed, and the final report was sent to Mr Thomas and to Councillor Sinclair on the 11 December and included the Monitoring Officer's decision that the matter would be referred to the standards panel.
- In Councillor Sinclair's absence it was explained that he vehemently refuted the Senior Governance Lawyer's findings and believed the Monitoring Officer had no jurisdiction to consider the complaint as he maintained that it had nothing to do with Ledbury Town Council and had made it clear that he would not make any apology in this case.

In response to the Panel's questions.

1. It was the SGL's view that Councillor Sinclair had deliberately used his LTC email address in an attempt to use his position improperly to link his email to his role, in the mind of the recipient, and give the impression to the Police that the matter was to do with Council business and should be viewed in such way.
2. The SGL was particularly concerned about the omissions to the police, since the referral could have resulted in further action being taken against Mr Thomas by the police, without their accurate understanding of what had happened.
3. The SGL confirmed that it was her opinion and view that there was no jurisdiction in investigating the events that took place on 17 September 2024, that there was no evidence that Councillor Sinclair was acting in his capacity as a councillor. The SGL confirmed this was her opinion but was open to Panel's determination. She also explained and drew the Panel's attention to the relevant case law in which the courts had considered the meaning of acting in the capacity of a councillor.
4. The Monitoring Officer confirmed that, following Councillor Sinclair's code of conduct breach in 2022, it was recommended that Councillor Sinclair undertake code of conduct training. It was not known if this had been completed.
5. The Monitoring Officer said that, with regard to Councillor Sinclair's breach of the Code of Conduct in 2024, he apologised, although the apology had not been considered to be satisfactory by Ledbury Town Council and the Monitoring Officer considered that further action would not have been a good use of public funds.

The complainant Mr Thomas was given the opportunity to speak.

- Mr Thomas said that he found Councillor Sinclair's conduct to have been highly disrespectful and had no place in public life. He regarded his actions as being spiteful, arrogant, and pathetic. Where he should have shown empathy, instead in his email entitled "winding people up is fun" proved him to be gleeful in his boastful account of the incident taken place on 17th September 2024.

- Mr Thomas questioned how a man of his calibre, who deliberately sets out to cause distress to members of the public and enjoys doing so, is seen as fit to serve as a member of Ledbury Town Council and that he should resign immediately and apologise.

In response to the panels questions it was noted.

1. Mr Thomas agreed that a forced apology was worse than receiving no apology at all.

The meeting closed at 11:01 and the panel convened in private to make their decision.

DECISION

An incident on 17 September 2024.

That Councillor Sinclair **DID NOT BREACH** Ledbury Town Council's Code of Conduct in relation to the following paragraphs:

- 1.1 – 'I treat other councillors and members of the public with respect' and
- 2.2 – 'I do not harass any person'.

The Panel accepted the Investigator's findings on jurisdiction and concluded, after careful consideration of the law and guidance and questions put to the investigating officer, that Councillor Sinclair was not acting in his capacity as a councillor at this time. Councillor Sinclair was neither performing or transacting a duty or task on behalf of Ledbury Town Council. The Panel did not consider that a reasonable person would consider that he would be acting in a capacity as a councillor. The Panel concluded that Councillor Sinclair was acting in his private capacity in seeing and taking the opportunity to goad someone that he perceived to have wronged him in the past. The Panel concluded, based on the legal guidance provided in the investigators report and the investigator's submissions at the meeting, that it had no jurisdiction to consider this part of the complaint. However, the Panel considered that Cllr Sinclair's behaviour was reprehensible and would have been a clear breach of the code of conduct, had the Panel jurisdiction to consider the incident.

An email from Councillor Sinclair to seventeen recipients on 19 September 2024.

That Councillor Sinclair **DID BREACH** Ledbury Town Council's Code of Conduct in relation to the following paragraphs:

- 1.1 - I treat other councillors and members of the public with respect;
- 4.1 - I do not disclose information which I believe or ought responsibly to be aware of, is of a confidential nature; and
- 5.1 - I do not bring my role or local authority into disrepute.

The Panel concluded, Councillor Sinclair emailed seventeen recipients from his personal email account, with an email headed 'Winding People Up'. The content of the email is undisputed. The email on 19 September 2024 was sent from Councillor Sinclair's private email account. The recipients included a range of people, including members of the public and councillors. The Panel considered that Councillor Sinclair was acting in his capacity as a councillor because, the email was sent to members of Herefordshire Council including the Leader; and a fellow Ledbury Town councillor is included in the list of recipients. Reference was made to being reported to the

Monitoring Officer and the Police, and to a complaint being made to Ledbury Town Council. The Panel particularly considered Cllr Sinclair's own evidence on this point, in which he confirmed the email was sent in relation to council business. The Panel having considered all the evidence again thought that this conduct was reprehensible and a clear breach of the code of conduct.

An email from Councillor Sinclair to the police on 20 September 2024.

That Councillor Sinclair **DID BREACH** Ledbury Town Council's Code of Conduct in relation to the following paragraphs:

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

General principle: 'I act with integrity and honesty'; and

General principle: 'I lead by example and act in a way that secures public confidence in the role of councillor'.

The Panel noted that Councillor Sinclair's description of the incident on 17 September 2024 to the Police did not include any reference to having deliberately wound up the complainant, to having 'goaded', 'baited', nor laughed at Mr Thomas. It was the Panel's view that this appeared to omit important information that would have been relevant to the police consideration of the incident. Councillor Sinclair told seventeen people 'Winding people up is fun, I got a spectacular bite on Tuesday...' but he did not include that information when he reported the matter to the police.

The Panel agreed with the view of the Investigator, that had the police been appraised of the part Councillor Sinclair's provocation played in the incident on 17 September 2024, their response may have differed from the response he received. The Panel agreed that Councillor Sinclair's evidence on this point was unclear and was a misrepresentation, designed to conceal the full circumstances from the police and to protect himself from any repercussions. Further to this, and an aggravating feature is, the referral from Councillor Sinclair could have resulted in further action being taken against the Complainant by the police, without their accurate understanding of what had happened.

STANDARD PANEL'S DECISION CENSURE AND SANCTION

As detailed above, the Panel considered the complaints made against Councillor Sinclair and stated, in respect of each complaint, its decision as to when he was acting as a Councillor at the relevant time and, if so, whether he had breached the Code of Conduct.

The Panel went on to consider what further action is required. The Panel was clear that the complaints it considered against Councillor Sinclair were serious and, in some aspects, distasteful.

The Panel did not believe 'No further action' is appropriate in this case as the breaches of the Code of Conduct are not minor or incidental breaches of the Code of Conduct. During his engagement with the process and prior to the decision of the Panel, Councillor Sinclair has not demonstrated to the Panel acceptance or regret for his actions, and has not contemplated an act of mitigation, such as an apology. It was of concern to the Panel that Councillor Sinclair had not attended the meeting.

The Panel understood that it could propose a letter of censure and recommend further sanctions.

The Panel recommended the following actions are taken:

1. The Panel recommended that the Standard's Panel Decision Notice is published by Ledbury Town Council and considered by a council meeting and Ledbury Town Council issue Councillor Sinclair with a formal letter of censure. The Panel formally requested that Ledbury Town Council report back whether it will agree to implement, insofar as it is able, the recommendations of the Standards Panel and report back when they have been complied with.
2. The Panel recommended to Ledbury Town Council that Councillor Sinclair be removed from any committees or sub-committees of Ledbury Town Council, if he is a member of such committees, and/or Councillor Sinclair be prevented from any appointment to such committees for the rest of this term of office, ending in May 2027.
3. The Panel recommended that Ledbury Town Council arrange Code of Conduct and GDPR training for Councillor Sinclair, and request from Ledbury Town Council that confirmation of completion of such training is provided to the Monitoring Officer. The Panel also seek clarification as to whether Councillor Sinclair has undertaken and completed the previously recommended training.
4. The Panel recommended to Ledbury Town Council that the Councillor be removed from any outside appointments to which he has been appointed or nominated by Ledbury Town Council for the rest of this term of office, ending in May 2027.
5. The Panel recommended that Councillor Sinclair should make a written apology to the Complainant for his conduct towards him in relation to the incident on 17 September 2024 and the subsequent emails sent on 19 September 2024 and 20 September 2024 and that such apology should be minuted at the next Full Council meeting of Ledbury Town Council.

There is no right of appeal against this decision notice.

A handwritten signature in black ink, appearing to read 'D Hitchiner', is centered on a light blue rectangular background.

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Chair of the Standards Panel
Cllr David Hitchiner

Dated: 4th February 2025