

SUBJECT:	CODE OF CONDUCT: CASES REVIEW
REPORT BY:	DIRECTOR OF RESOURCES
LEAD OFFICER:	CAROLYN WHEATER – ASSISTANT DIRECTOR (LEGAL AND CORPORATE SUPPORT SERVICES)

1. Purpose of Report

- 1.1 To provide information on recent cases relating to other local authorities' codes of conduct and consider their potential relevance to the Council.

2. National Cases Relating to Councillor Conduct

- 2.1 Since the removal of the Standards for England Board as part of the changes brought through the Localism Act 2011, the Council no longer receives a summary of cases reported from across the country. As a result, the cases chosen for consideration are drawn primarily from local government networks and media reports, and are summarised below.

- 2.2 The reports highlighted are gathered solely from information made available by the relevant local authorities. As cases are often considered to contain exempt information, there are potentially elements of the case which may not be publicly available. As such, members should be aware that the cases below are provided for the purpose of discussion and may not give the full picture in every regard.

2.3 Brighton and Hove City Council

A councillor was found to have breached the member code of conduct following remarks made to a local newspaper that golliwog toys were nostalgic rather than racist and that complaints about them were 'political correctness gone too far'. The councillor was found not to have breached the code with regard to treating others with respect and acting in such a manner as to risk causing the authority to breach any of its equality duties (in particular as set out in the Equality Act 2010), but had breached the code of conduct herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute. The councillor was therefore to be requested to attend diversity training. The reasons for the finding were put forward as follows:

1. That her support for and encouragement for the continued sale of golliwogs, instead of fostering good relations between people who share a protected characteristic and those who do not, had the potential to cause division and offend some sections of the community.
2. The Council has given a commitment to zero tolerance of racist attitudes and behaviours. The councillor's statements to the newspaper were not consistent with these requirements.

2.4 Ealing London Borough Council

An application to bring a judicial review of a code of conduct decision against a councillor on the grounds of the councillor's right to freedom of speech was rejected by a High Court judge. The councillor had made comments about immigration and particular ethnic groups in a website posting. The judge found that:

'The comments about Southall residents were contained in a separate section of the blog from those which raised legitimate topics of political debate. They were not the expression of a political view, but an unjustified personal and generic attack on a section of the public... The subjects of the speech were not politicians but ordinary members of the public and, as such, the comments did not attract the higher level of protection applicable to political expressions and the comments would plainly have undermined confidence in local government, the preservation of which is a recognised aim of the Code.'

Moreover, the mildness of the original sanction requesting an apology from the councillor was also noted to have a bearing on the extent to which the councillor's qualified right to freedom of speech could be infringed.

2.5 Hackney London Borough Council & Hinckley and Bosworth Borough Council

Members of an opposition group at each of these councils have withdrawn from taking part in the councils' standards committees citing concerns that the new standards regime was politically partial and did not give sufficient emphasis to independent people. Councillors taking part in the move state that they will take no further part in hearings or acknowledge any decisions made.

3. **Potential Learning Points**

- 3.1 Having regard to these complaints which have been investigated by other local authorities, members should consider whether any appropriate actions can be identified to ensure that the likelihood of any future breaches of the Member Code of Conduct by members representing the City of Lincoln Council is limited.
- 3.2 The Ethics and Engagement Committee may wish to consider the following actions if any learning points are identified:
 - Issuing guidance to members and any other relevant parties on a general topic which presents a cause for concern with a view to potential future breaches of the Member Code of Conduct.
 - Requesting specific training for all members or members whose individual status would be relevant to the particular training.
 - Proposing amendments to the Member Code of Conduct and the procedure for considering complaints, if improvements can be identified.
 - Any other actions falling within the remit of the Committee which might aid the improvement of councillors' conduct.
- 3.3 If members are aware of further cases of broad interest from other local authorities in relation to ethical behaviour by councillors, details can be submitted via Democratic Services or raised at the meeting of the Committee for potential inclusion in a future report.

4. Strategic Priorities

- 4.1 The development of a fit-for-purpose council relies upon the proper conduct of officers and members. By considering the lessons learned from other local authorities the Council is better positioned to take preventative action to resolve any potential issues before they arise.

5. Organisational Impacts

5.1 Finance

There are no direct financial implications arising from this report.

5.2 Legal Implications

The Ethics and Engagement Committee's role includes the promotion and maintenance of high standards of conduct by councillors and co-opted members; this report forms a part of the work of the Committee in proactively addressing any matter that could detract from the reputation and behaviour of the Council or its councillors.

6. Recommendation

- 6.1 That the Ethics and Engagement Committee note the contents of the report and recommend any suitable action arising from it.