

Standards Sub-Committee - Hearing

21 March 2016

Present: Councillor C Johnson (Chair)
Councillors P Earley, J O'Shea and P Mason

Also Present: Mr P Keith-Lucas, Bevan Brittan LLP, Investigating Officer
Councillor T Mulvenna, witness to the Investigating Officer
Mr G Clark, Independent Person
Mrs S Gardner, Independent Person

SSC11/03/16 Apologies

No apologies of absence were reported.

SSC12/03/16 Appointment of Substitute Members

No appointment of substitute Members was reported.

SSC13/03/16 Declarations of Interest and Dispensations

There were no declarations of interest reported.

There were no dispensations in relation to registerable personal interests reported.

SSC14/03/16 Chair's Announcement

The Chair's opening remarks included the introductions of all parties present and the preliminary procedural matters.

SSC15/03/16 Exclusion Resolution

The Standards Sub-Committee was required to consider any representations from the Investigating Officer and/or the Member as to why the Sub-Committee should exclude the press and public under the following terms:

"That under Section 100A(4) of the Local Government Act 1972 (as amended) and having applied a public interest test as defined in Part 2 of Schedule 12A of the Act, the press and public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A to the Act."

The following representations were made:

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The Sub-Committee proposed that the Hearing be held in public, subject to specified exempt information contained within the agenda papers not to be open to the press or public or permit their inspection by the press or public.

Resolved that the Hearing be held in public except for those parts of its proceedings which involved exempt information and during its deliberations of the Standards Sub-Committee.

SSC16/03/2016 Code of Conduct for Members – Complaints NT10/2014, NT11/2014, NT17/2014, NT20/2014 and NT19/2014

The Standards Sub-Committee received a report which presented the Investigating Officer's completed investigation report in relation to an alleged breach of the Members' Code of Conduct in relation to Complaints: NT10/2014, NT11/2014, NT17/2014, NT20/2014 and NT19/2014.

The Authority's Local Arrangements for the consideration of complaints made against Members under the Code of Conduct for Members and Co-opted Members at Appendix A to the report, required that a completed investigation report be received by the Standards Committee/Standards Sub-Committee to determine the action to be taken with respect to the Complaint.

The person(s) making the complaint would be referred to in this procedure as 'the Complainant' and the person against whom the complaint was made would be referred to as 'the Subject Member'.

The Sub-Committee noted that former Councillor David Ord, the subject member of the allegations was not present at the commencement of the Hearing. The Sub-Committee also noted that former Councillor David Ord had advised that he was unable to attend the hearing due to his work commitments.

The Chair advised the Sub-Committee that former Councillor David Ord had been offered a series of dates for the hearing of the allegations. None had proved suitable. Former Councillor David Ord had been previously provided with a copy of the Investigating Officer's report and had participated in the Pre-Hearing process.

The Sub-Committee determined to proceed with the hearing of the allegations against former Councillor David Ord.

The Pre-Hearing Process Summary Report in relation to complaints NT10/2014, NT11/2014, NT17/2014, NT20/2014 and NT19/2014 was attached at Appendix B to the report.

In determining the procedural arrangements at the hearing, the pre-hearing process considered:

1. Summary of Allegations

The following 5 complaints arising from the Authority's consideration at its meeting of 27 November 2014 of the report of the Independent Remuneration Panel's report in respect of Members' Allowances had been referred by the Monitoring Officer for investigation.

Allegation 1: Complaint NT10/2014

The complainant, Councillor T Mulvenna, alleges that former Councillor D Ord:-

- Failed to show respect to Mr John Anderson, Chair of the Independent Remuneration Panel, and conducted himself in a manner which could reasonably be regarded as bringing the authority and his office into disrepute in that, during questions to the Mr Anderson, [former] Councillor David Ord had been argumentative and less than professional, at one point saying that the Panel's report was "mindless crap";
- Failed to show respect to Councillor Frank Lott and conducted himself in a manner which could reasonably be regarded as bringing the authority and his office into disrepute in that he "gave the finger" to Councillor Frank Lott.
- Failed to show respect to the Mayor and to the Chair of Council and conducted himself in a manner which could reasonably be regarded as bringing the authority and his office into disrepute in, having been warned about his behaviour, he disrupted the Mayor's comments in an unacceptable manner.
- Failed to show respect to the Chair of Council and conducted himself in a manner which could reasonably be regarded as bringing the Authority and his office into disrepute in that, after the Chair had asked him to leave the meeting, he initially failed to do so, and then made a "Fascist salute" to the Chair's dais and left the meeting.

Allegation 2: Complaint NT11/2014

The complainant, Councillor G Bell, alleges that former Councillor D Ord:-

- Failed to show respect to the Chair and conducted himself in a manner which could reasonably be regarded as bringing the Authority and his office into disrepute in that he "made a Nazi salute" after being asked to leave the Council meeting, which gesture was witnessed by Full Council and the Public Gallery.

Councillor G Bell stated in his allegation as follows:

"The conduct by Councillor Ord offended me.

After serving my country in the Armed forces and those veterans who fought against the Nazis, behaviour from an elected member in this way is a disgrace.

In the same building we have a Holocaust memorial and he clicks his heels together and raises his arm in a Nazi salute is beyond contempt.

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I hope the strongest sanction will be endorsed, no words of an apology from him or his leader.

A shameful night for us all!"

Allegation 3: Complaint NT17/2014

The complainant, Councillor F Lott, alleges that former Councillor D Ord:-

- Failed to show respect to the Chair of the Independent Remuneration Panel and conducted himself in a manner which could reasonably be regarded as bringing the authority and his office, in that he referred to either the report of the Panel or to the Chair's definition of "the mean average" as "mindless"; and
- Failed to show respect to Councillor Frank Lott and conducted himself in a manner which could reasonably be regarded as bringing the Authority and his office into disrepute, in that, when Councillor Frank Lott told the Chair of Council that he considered [former] Councillor David Ord's conduct to be unacceptable, [former] Councillor Ord "raised his left arm towards me with the middle finger uppermost".

Councillor F Lott stated in his complaint that he considered both the statement and the gesture to be unacceptable.

Allegation 4: Complaint NT20/2014

The complainant, Councillor B Burdis, alleges that former Councillor D Ord:-

Failed to show respect to the Chair of the Independent Remuneration Panel, to Councillor F Lott and to the Chair of Council and conducted himself in a manner which could reasonably be regarded as bringing the authority and his office in to disrepute, in that he –

- "was obnoxious and insulting to the Independent Chair of the Remuneration Panel";
- "made a one-fingered gesture to Councillor Frank Lott";
- Behaved in a "disgusting and depraved" manner in response to the Chair of Council "whereby Councillor Ord stood up in full view of the Chamber and raised his arm in a Nazi salute then left the Chamber."

Councillor B Burdis states in his complaint that –

"Councillor Ord's behaviour was an insult to all who died at the hands of the Nazis in World War 2. This outrageous act clearly brought the Council into disrepute.

The later excuse that the salute was a Bellamy salute, a salute to the American flag in pledge of allegiance, however there were no Stars and Stripes within the Chamber, I do not believe Councillor Ord is a USA citizen

and this practice stopped after fascist groups such as the Nazis adopted the gesture. I personally believe that when [former] Councillor Ord realised the gravity of his action he has made a futile attempt to cover it up with the lame Bellamy salute story."

Allegation 5: Complaint NT19/2014

The Complainant, Councillor B Burdis, alleges that former Councillor D Ord:-

The context for this complaint was that former Councillor D Ord made an allegation (NT/15/2014) against Councillor B Burdis in the following terms:

"Despite the fact that there was nothing similar to a Nazi salute made in the Chamber, Brian Burdis, in a shameless attempt to deflect attention for the just passed 25% increase in Councillors' Basic Allowances, invented this and then, for his own benefit, decided to claim that something that hadn't happened was somehow an insult to the millions murdered by the Nazis

during the 1940s. Not only did this disgusting little man not bother to give the whole total of the millions murdered he went to the press with it.

This cannot be seen as anything other than calling North Tyneside Council into disrepute and this scum should be expelled from the Council."

This allegation was copied to Councillor Brian Burdis for comment and, having consulted the Independent Persons, the Monitoring Officer exercised delegated powers and determined that this allegation should not be referred for investigation.

Councillor B Burdis then made an allegation that Councillor D Ord:

- failed to treat him with respect in making his complaint in respect of Councillor Brian Burdis.
- attempted to intimidate or improperly influence, him as a person who is involved in any complaint about any alleged breach of this code of conduct.

Specifically, Councillor B Burdis stated as follows:

"The complaint is in reference to Cllr Ord's complaint (copy attached).

The language in the complaint is inappropriate and offensive and without justification.

To use the words "disgusting little man" and scum" in his submission I believe is against the Council's Code of Conduct which says that "you must treat others with respect, including Council Officers and Elected Members."

The wording could also be perceived by the public as a form of bullying and intimidation.

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Councillor Ord has used language against another member of the Council to the detriment of that member that is clearly a breach of the Code of Conduct."

2. Relevant Paragraph(s) of the Code of Conduct

The relevant paragraphs of the Code in relation to the above complaints were:

Paragraph 1: You must treat others with respect, including Council Officers and other elected members.

Paragraph 4: You must not conduct yourself in a manner which could reasonable be regarded as bringing the Council, or your office as a member of the Council, into disrepute.

3. Findings of fact in the Investigating Officer's report that were Disagreed

Former Councillor Ord has not indicated that he disagreed with any specific finding of fact in the Investigating Officers report. Former Councillor Ord had stated that:

"Basically given the rubbish in the report there is no practical purpose in replying to any part of it.

I will be there for the showtrial when you get the Starchamber together, there is no need to bring supporting witnesses as the result is so obviously pre-decided and I can't really see the point in wasting anyone other than the cabal's time."

4. Attendance at the hearing (including representatives)

Former Councillor D Ord confirmed he would be present at the hearing. No representative had been appointed.

[Since completion of the pre-hearing process summary on 29 February 2016, former Councillor Ord had advised the Sub-Committee that he was unable to attend the hearing due to his work commitments as indicated above].

Mr Peter Keith-Lucas confirmed he would be present at the hearing and would present his report.

Witnesses Attending:

Former Councillor Ord has not requested the attendance of any witnesses.

The Investigating Officer has requested the attendance of the following witness:

Councillor T Mulvenna.

The report of the Investigating Officer in relation to Complaints NT10/2014, NT11/2014, NT17/2014, NT20/2014 and NT19/2014 was attached at Appendix C.

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The Investigating Officer had found in his report that a breach of the Code of Conduct had occurred in relation to the above Complaints.

The Sub-Committee examined the Investigating Officer's report together with the written representations received from former Councillor Ord.

The Sub-Committee asked questions of the Investigating Officer in relation to his report.

[The Chair announced a short adjournment at this point.]

In its deliberations in private, the Sub-Committee considered the findings of the Investigating Officer in his report, together with his verbal comments at the meeting.

The Sub-Committee also took account the views expressed by the Independent Persons at the meeting.

5. Findings of Fact

The Sub-Committee made the following Findings of Fact:

Summary

1. The allegations were submitted before the local government elections in May 2015 at that time former Councillor David Ord was a Member of North Tyneside Council. Former Councillor Ord was not re-elected in the May 2015 elections and was therefore no longer a Member of North Tyneside Council.
2. By virtue of Section 100 of the Local Government Act 2000) and the Local Authorities (Members' Allowances) (England) Regulations 2003, as amended, the Authority may pay members' allowances, comprising a Basic Allowance which was payable to every Councillor, and a scale of Special Responsibility Allowances payable to the Mayor and to members who hold positions of special responsibility within the Authority. The Council must approve an annual Scheme of Members' Allowances, but before they doing so must have regard to the recommendations of an Independent Remuneration Panel, appointed by the Council for this purpose. The Council may approve the scheme annually, or may agree to increase allowances automatically every year by reference to an index for a maximum of 4 years, in which case such automatic increases in accordance with that increase did not require a further report from the Independent Remuneration Panel.
3. At the Council Meeting on 27 November 2014, the seating arrangements were as follows. A raised dais at the front of the Chamber, on which there were seated, facing the Chamber, left to right:-
 - i. Stephen Ballantyne, Lawyer Specialist - Governance and Employment
 - ii. David Brown, Democratic Services Manager
 - iii. Vivienne Geary, Head of Law and Governance and Monitoring Officer
 - iv. Councillor Tommy Mulvenna, Chair of Council
 - v. Councillor Gary Bell, Deputy Chair of Council

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- vi. Patrick Melia, Chief Executive
 - vii. Mrs Norma Redfearn, Elected Mayor
4. In front of the dais and in front of the Mayor was a lectern, from which Mr John Anderson, Chair of the Independent Remuneration Panel, presented his report.
 5. The Council Chamber was arranged such that the Labour Party's 42 Councillors sat to the Chair's right; the Liberal Democrat Party's 4 Councillors sat in front of the Chair; and the Conservative Party's 12 Councillors sat to the Chair's left. At the back of the Chamber, between the Liberal Democrat and the Conservative seats were a couple of seats for officers, to which Mr Anderson, Chair of the Independent Remuneration Panel, retired after he had presented the panel's report.
 6. Councillor Brian Burdis was sitting towards the far end from the Chair of the third (back) row of Labour seats; Councillor Bruce Pickard was sitting in the middle of the front row of Labour seats as Deputy Mayor; Councillor Frank Lott was sitting in the middle of the front row of the Labour seats, and former Councillor David Ord was sitting on the left hand of the Liberal Democrat row of seats, as viewed from the Chair.
 7. Paul Hanson, Deputy Chief Executive, was seated in the back row of the Public Gallery, at the far end to the dais, and in line with the Liberal Democrat seats.
 8. All Member's seats and the dais were equipped with microphones, so that Members were instructed to press a button on their microphone when speaking, to ensure that they were audible to the Chamber, but the acoustics of the Chamber were such that remarks made without the benefit of an activated microphone could be readily audible to other Members. The proceedings of Council Meeting were not recorded.

Allegations 1 – 4: (Complaints NT10/11/17and 20/2014)

9. The Council Meeting was conducted in an orderly fashion up until the consideration of the item in respect of Members' Allowances.
10. The item on Members' Allowances was Item 9 on the agenda for the Council Meeting. The written agenda included a covering report from Vivienne Geary as Head of Law and Governance, to which was attached the report of the Independent Remuneration Panel.
11. When Item 9 was reached, Councillor Bruce Pickard introduced the item in his role as Deputy Mayor and the responsible Cabinet Member and introduced Mr John Anderson as the Chair of the Independent Remuneration Panel to present the Panel's report.
12. Mr Anderson spoke for no more than 5 minutes, explaining how the Panel had reached its conclusions that the Members' Basic Allowances in North

Tyneside were significantly lower than comparable allowances in the other "LA7" authorities (the other 4 Tyneside Metropolitan Borough Councils, plus Durham City Council and Northumberland County Council), and recommending an increase from £7,896 per annum to £9,759 per annum, to be indexed for 4 years by reference to National Joint Council (NJC) pay awards to local authority employees, and that the panel give further consideration to the appropriate level of Special Responsibility Allowances.

13. By way of background, the Panel had made similar recommendations in previous years, but that Council had rejected these recommendations as inappropriate during a period of economic recession.
14. The Chair then invited Councillors to put questions to Mr Anderson. Former Councillor David Ord asked how the Panel had undertaken their comparison with the other LA7 authorities and particularly whether the Panel had factored into their assessment that North Tyneside Council had significantly fewer residents per Councillor than any of the other LA7 authorities.
15. Former Councillor David Ord put his question forcefully, as a combination of question and argument. Mr Anderson replied at some length, largely restating the basis of the Panel's recommendation, but tacitly acknowledging that the Panel had not factored the difference of population per Councillor into their assessment.
16. Following Mr Anderson's response, former Councillor David Ord made a remark which was audible to the Chamber.
17. The Sub-Committee noted that there was conflicting evidence in relation to the precise words used by former Councillor Ord in making his remark. On balance, the Sub-Committee found that former Councillor Ord's remark was that the report of the Independent Remuneration was "mindless".
18. Councillor Frank Lott then addressed the Chair to say that former Councillor David Ord's remark had been unacceptable. Former Councillor David Ord then made a gesture to Councillor Frank Lott, comprising raising his left hand with the middle finger extended. Former Councillor David Ord had acknowledged that this was not acceptable behaviour in a Council debate. The Chair then spoke to Councillor David Ord to warn him as to his conduct.
19. The Chair then invited other Councillors to ask questions of Mr Anderson, but none wished to.
20. The Chair then invited Members to debate the recommendations. Former Councillor David Ord was one of the Members who spoke in this debate, repeating his view robustly that there were many ways to analyse what would be a reasonable level of Basic Allowance, but that just comparing the Basic Allowances paid by the LA7 authorities did not provide any objective justification for a particular figure, and that the report of the Independent Remuneration Panel was flawed by reason of its not taking account of the lower population per Councillor.

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21. At the close of debate, Councillor Bruce Pickard called for a named vote on the recommendations, which was taken as recorded in the minutes, with former Councillor David Ord voting against the recommendations.
22. Following the vote, the Mayor spoke to ask whether former Councillor David Ord could elect not to receive his increased allowances. Former Councillor David Ord responded, still seated, saying that this was not a realistic option as the full increased allowance would still be liable to tax and assessed for the purposes of benefits. Former Councillor David Ord had accepted that he interrupted and shouted across the Mayor.
23. The Chair then advised former Councillor David Ord that he had had enough of his conduct and asked him to leave the Chamber.
24. Former Councillor David Ord then left his seat, leaving his coat and papers behind and exited the Chamber. At some point between standing and leaving the Chamber he made a gesture towards the Chair, in which he stood with his legs together and raised his right arm, to or above the horizontal, with his hand flat and facing down. After he left the room, there was a period of silence and then the Chair then adjourned the Council meeting for a brief period before continuing with the meeting.
25. The Sub-Committee considered at length the explanation submitted by former Councillor Ord for the gesture that he made at this point in the Council meeting, including the angle to which former Councillor Ord's arm had been raised and whether or not he had clicked his heels together.
26. The Sub-Committee did not accept that the gesture made was a "Bellamy Salute" as suggested by former Councillor Ord. That was a salute of allegiance to the USA flag. This salute had not been in use in the USA since the USA entered the Second World War in 1942, because of its similarity to the Nazi or Fascist salute. In addition, there was no USA flag in the Council Chamber. The Sub-Committee found that the gesture made was a Nazi salute and that former Councillor Ord made it with the intention of causing offence.
27. After the meeting, Councillor David Ord and Councillor Brian Burdis spoke in turn to a reporter from the Evening Chronicle.

Allegation 5: (Complaint NT19/2014)

28. Following Councillor Brian Burdis' complaint in respect of former Councillor David Ord, former Councillor David Ord made an allegation (NT/15/2014) against Councillor Brian Burdis as set out above on the Summary of Allegations.
29. Councillor David Ord's reference to the number of deaths in the Second World War related to a passage in the Evening Chronicle report of the debate in Council, in which Councillor Brian Burdis was quoted as saying – "I am absolutely disgusted, it is not right.

- Six million Jews died during the Second World War and soldiers died to fight against these people."
30. As explained above in the Summary of Allegations the Monitoring Officer exercised delegated powers and determined that this allegation should not be referred for investigation.
31. Councillor Brian Burdis then made an allegation (NT19/2014) again set out above in the Summary of Allegations that former Councillor David Ord –
- (a) failed to treat him with respect in making his complaint in respect of Councillor Brian Burdis.
 - (b) attempted to intimidate or improperly influence, him as a person who is involved in any complaint about any alleged breach of this code of conduct.
32. The Monitoring Officer sent a copy of Councillor Brian Burdis' complaint to former Councillor David Ord on 23 January 2015, requesting that he apologise to Councillor Brian Burdis and setting a deadline for such an apology. Former Councillor David Ord did not apologise within that deadline, despite the Monitoring Officer sending him a reminder on 3 March 2015. Accordingly, on 23 March 2015 the Monitoring Officer wrote to former Councillor David Ord to say that she had decided, in the absence of an apology, to refer the complaint for investigation.
33. On 27 March 2015, former Councillor David Ord replied to the Monitoring Officer, as follows:
- "Dear Mrs Geary,
- I have grave doubts about the legality and constitutional basis for the Labour Council demanding an apology for having the temerity to complain about the disgusting behaviour of a Labour Councillor.
- The simple facts are that Councillor Burdis invented a Nazi salute for his own political purposes, and then went to the press with a blatant self-serving fabrication that managed to exploit and trivialise the mass-murder of people by the Nazis in order to distract attention from the sheer greed of the Labour Party in voting through a rise in Councillors' allowances.
- I note that this is considered acceptable by the Labour Council and no action was taken against Councillor Burdis for either his lies about an opposition Councillor, or his depraved exploitation of the mass-murder of millions of people. Obviously despite having a Holocaust Memorial in the Council Offices, this is considered by the Labour Council to have no meaning whatsoever.
- However I have attached an apology which seems suitable in the circumstances. Yours faithfully
- David Ord"

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34. Former Councillor David Ord enclosed a blank sheet of paper, in the centre of which in very small print was the one word "Sorry".
 35. In interview, former Councillor David Ord confirmed that his apology was intended to be mocking.
 36. Councillor Brian Burdis stated in evidence that he recognised former Councillor David Ord's gesture as being a Nazi salute, and that he saw it as seriously disrespectful to the Chair by drawing an analogy between the conduct of the Chair in asking him to withdraw and the actions of the Nazis.
 37. The Sub-Committee considered that it was reasonable for Councillor Brian Burdis to consider that former Councillor David Ord's actions trivialised the deaths that occurred in the Holocaust and to say so to the Evening Chronicle reporter after the meeting. It was also entirely foreseeable to former Councillor David Ord that Councillor Brian Burdis might reasonably draw this connection, and so unreasonable for former Councillor David Ord to criticise Councillor Brian Burdis for doing so.
 38. Former Councillor David Ord said to the Investigating Officer he had been particularly offended that Councillor Brian Burdis should have suggested that the number of Jews killed during the Second World War was 6 million, whereas the true figure was 11 million.
 39. The Sub-Committee accepted and adopted the findings of the Investigating Officer in relation to the number of Jews who died in the Second World War as a direct result of the actions of the Nazis. In particular that former Councillor David Ord's figure in interview of 11 million was significantly more than was suggested by the principal reputable authorities on this matter.
 40. In his complaint, former Councillor David Ord described Councillor Brian Burdis as "this disgusting little man" and as "this scum".
 41. In interview, former Councillor David Ord declined to accept that such words were unacceptable, only being prepared to concede that it "could have been phrased better."
 42. The Sub-Committee found that Councillor Burdis acted reasonably in making his reported statement to the Evening Chronicle reporter. There was nothing in Councillor Brian Burdis' actions which merited criticism or was near to a failure to treat former Councillor David Ord with respect. The words which former Councillor David Ord used to describe Councillor Brian Burdis were unacceptable in the context of political debate in a democratic society.
- 6. Findings as to whether there had been a failure to follow the Code of Conduct**

Allegations 1 – 4: (Complaints NT10/11/17 and 20/2014)

- i. Councillor David Ord's manner in questioning John Anderson:

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The Sub-Committee considered that former Councillor David Ord was robust and challenging in his manner in putting forward his question to Mr Anderson as to how the Independent Remuneration Panel had come to its recommendations.

However, whilst Councillor Mulvenna, as Chair of Council felt that former Councillor Ord had been "out of line" and had been "quite rude and challenging", the Sub-Committee acknowledged that there was a fine line between robust challenge and rudeness. Against that background the Sub-Committee found that in his question to Mr Anderson and in his participation in the debate on the Independent Remuneration Panel's report former Councillor David Ord was robust and challenging but that, in this respect, he did not fail to treat Mr Anderson with respect.

ii. Former Councillor David Ord's remark following Mr Anderson's response:

Whilst there was a conflict of evidence about exactly what Councillor David Ord said following Mr Anderson's response to his question, on the balance of evidence the Sub-Committee concluded that former Councillor David Ord's remark was intended to be heard by Mr Anderson, was intended by him to refer to the report of the Independent Remuneration Panel rather than to John Anderson, and described the report as "mindless".

The Sub-Committee considered that it was wholly inappropriate for former Councillor David Ord to express his view publically, in a manner which he acknowledges was intended to be heard by Councillors and by Mr Anderson, at a point in the consideration when Mr Anderson had no reasonable opportunity to respond.

The Sub-Committee therefore found that in making this remark, Councillor David Ord failed to treat the Independent Remuneration Panel with respect and, in doing so in such a public forum, conducted himself in a manner which could reasonably be regarded as bringing the Authority and his office into disrepute.

iii. Former Councillor David Ord's gesture to Councillor Frank Lott:

After former Councillor David Ord made the remark referred to above in response to Mr Anderson, Councillor Frank Lott drew the Chair's attention to this remark and expressed the view that it was unacceptable conduct.

In response, former Councillor David Ord acknowledged that he made a gesture to Councillor Lott comprising raising his left hand with the middle finger extended. This is widely recognised as a rude signal broadly equivalent to a "V" sign. Former Councillor David Ord himself agrees that this was unacceptable and states that he tried to speak to Councillor Lott after the Council meeting and to apologise.

The Sub-Committee found that in making this gesture to Councillor Lott, former Councillor David Ord failed to treat Councillor Lott with respect and, in doing so in such a public forum, conducted himself in a manner which could reasonably be regarded as bringing the Authority and his office into disrepute.

iv. Interrupting and speaking across the Mayor:

The Sub-Committee found that, after the completion of the named vote in respect of Members' Allowances, and the Mayor's question whether former Councillor David

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Ord and other Councillors who had voted against the increase in Basic Allowances could forego the increase, former Councillor David Ord interrupted the Mayor and shouted across her.

The Sub-Committee considered that former Councillor David Ord's conduct was inappropriate and disorderly. However, as it was in response to the Mayor's intervention, the Sub-Committee did not find that it was a failure to treat the Mayor with respect.

v. Councillor David Ord's salute on leaving the Chamber:

As set out above, the Sub-Committee was satisfied that former Councillor David Ord's response to the Mayor's intervention, variously described as "shouting", "gesticulating" and "ranting", was disruptive conduct and that the Chair of Council acted properly in asking him to leave the Chamber.

The Sub-Committee had concluded above that former Councillor Ord then stood up and, upon doing so or from a position within a couple of paces of his chair, came to a position of "at attention" and gave a Nazi or Fascist salute to the Chair, with the intention of causing offence.

The Sub-Committee found that in so doing former Councillor D Ord failed to treat the Chair of Council with respect and, in doing so in such a public forum, conducted himself in a manner which could reasonably be regarded as bringing the Authority and his office into disrepute.

Allegation 5: (Complaint NT19/2014)

The Sub-Committee could find no justification for former Councillor David Ord's description of Councillor Brian Burdis as "this despicable little man" and as "this scum". Nothing in Councillor Brian Burdis' conduct merited criticism or on this

occasion abuse. Former Councillor David Ord's use of these phrases was not part of any reasoned debate, but simply abuse, designed to demean Councillor Brian Burdis.

Accordingly, the Sub-Committee found that former Councillor David Ord did fail to treat Councillor Brian Burdis with respect in describing him as "this despicable little man" and as "this scum".

The Sub-Committee had no evidence that Councillor Brian Burdis was doing anything other than reacting genuinely and reasonably to former Councillor David Ord's deliberately offensive conduct, and had found no evidence of any concerted action between Labour Councillors, or of conduct on their part which was not entirely justified by former Councillor David Ord's conduct.

Former Councillor David Ord had a reasonable knowledge of Councillor Brian Burdis and knew or ought to know that he was not likely to be intimidated in pursuing a standards complaint by a wholly unmeritorious counter complaint or by personal abuse.

Accordingly, the Sub-Committee found that in applying the abusive words to Councillor Brian Burdis, Councillor David Ord was simply being rude and offensive, but the Sub-Committee could find no evidence that his purpose in doing so was to bully or intimidate Councillor Brian Burdis.

7. Sanctions

The Sub-Committee considered what sanction, if any, to set in relation to the breaches of the Code of Conduct identified above.

In reaching its decision the Sub-Committee considered all the relevant circumstances, together with the verbal comments made by the Investigating Officer at the meeting. The Sub-Committee also took account of the views of the Independent Persons.

The Sub-Committee determined that the following sanctions/actions be undertaken:

Resolved that (1) former Councillor Ord be issued with a letter of censure in relation to the breaches of the Code of Conduct found;
(2) former Councillor Ord be requested to write a letter of apology to the Council in relation to the complaints that arose from the meeting on 27 November 2014;
(3) former Councillor be requested to write a letter of apology to Councillor B Burdis in relation to the words he used to describe Councillor Burdis;
(4) a report from the Sub-Committee be submitted to a future meeting of the Full Council detailing the Sub-Committee's decisions; and
(5) the Monitoring Officer be instructed to publish the Formal Written Notice of the Sub-Committee's decision on the Authority's web site.

This was a unanimous decision of the Sub-Committee.