



Subject:	Summary of NI Local Government Commissioner for Standards Report "In the Matter of former Councillor Declan Boyle", Belfast City Council
Date:	21 st February 2023
Reporting Officer:	Nora Largey, City Solicitor / Director of Legal & Civic Services
Contact Officers:	Russell Connelly, Policy, Research and Compliance Officer

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	The purpose of this report is to provide Members with a summary of the findings of the NI Local Government Commissioner for Standards Report "In the Matter of former Councillor Declan Boyle".
2.0	Recommendations
2.1	It is recommended that the Standards and Business Committee: <ul style="list-style-type: none">- note the findings of the NI Local Government Commissioner for Standards in the matter of former Councillor Boyle (a copy of the summary report is attached at Appendix 1);- agree the actions / recommended way forward outlined at paragraph 3.6

3.0	Main report
3.1	<p>Summary of the complaint</p> <p>The complaint against Former Councillor Boyle related to the suspected breach of the Code in relation to registration and declaration of both pecuniary and significant non-pecuniary interests and the requirement to withdraw from a meeting whilst such matters are being discussed.</p> <p>In his Investigation Report, dated 11 July 2019, the Deputy Commissioner reported that he had found evidence that would point to former Councillor Boyle having failed to comply with the following code paragraphs:</p> <ul style="list-style-type: none"> • Paragraph 5.2 of the Code which requires that a councillor’s interests must be registered within 28 days of a councillor’s election. • Paragraph 6.1 of the Code which requires the declaration of any pecuniary interest • Paragraph 6.2 of the Code which states that a councillor must not speak or vote on a matter in which they have a pecuniary interest and must withdraw from the meeting whilst the matter is being discussed. • Paragraph 6.3 which requires the declaration of any significant private or personal nonpecuniary interest. • Paragraph 4.2, you must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute. • Paragraph 4.6 which requires a councillor to comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner’s statutory powers. <p>The Deputy Commissioner acknowledged the Councillor Boyle’s acceptance of breaches of paragraphs: 5.2, 6.1, 6.2, 6.3 and 4.6 of the Code. Councillor Boyle did not accept that he had breached the Code of Conduct at Paragraph 4.2, you must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute. The Deputy Commissioner was content not to pursue the alleged breach 4.2 of the Code.</p> <p>Councillor Boyle acknowledged that breaches of the Code, whereby interests were not registered or declared, or where interests are declared but a councillor nevertheless remains at a meeting in full, do have the potential to impact on public trust and confidence in the councillor and the work of the Council as a whole.</p>
3.2	<p>Key Findings from the Commissioners’ Report</p> <p>The Acting Commissioner’s Report is attached in full at Appendix 1.</p> <p>The Acting Commissioner identified the following mitigating factors:</p> <p>Mitigating factors</p> <ol style="list-style-type: none"> a. Had no prior history of breaching the code. b. In general, he cooperated throughout the investigation process.

- c. It was his first and only term of office where the issues prompting the complaints occurred early in that term.
- d. There was some evidence of him honestly holding, although mistaken, a view that his actions did not constitute a failure to follow the provisions of the Code, particularly where such a view has been formed after taking appropriate advice.
- e. His conduct was driven by what he considered to be his adverse personal circumstances, namely a threat made to his and his family's safety some years prior to him becoming a councillor.
- f. Admission that he breached the Code, which contributed to an expeditious conclusion saving time and public money.

Aggravating Factors

- a. Three separate complaints were made, two by members of the public. The conduct was the subject of media reporting, so in the public view. This would not have inspired confidence in the role of Councillors.
- b. The requirement to declare his property holdings was raised with him on several occasions. Only he knew the extent of his property holdings and this should have caused him to visit the Code on that aspect.
- c. The Acting Commissioner had considered the Commissioner's decision in the 2019 case of Mervyn Rea, concerning the importance of registering and declaring interests, where she said: "The Commissioner wishes to highlight to councillors generally that a failure to declare a pecuniary interest (direct or indirect) may result in a sanction of disqualification. This is a serious conduct matter which is underpinned by section 28 of the Local Government Act 1972".

Conclusions

Mr Boyle admitted the breaches of the Code and, regardless of the relevant mitigation, they were serious breaches which required an equally serious sanction. If he had still been a serving councillor, the Acting Commissioner would have suspended him from his role. Suspension would have been a proportionate sanction for his level of breach.

The Acting Commissioner said that only censure or disqualification was an outcome. If the respondent had still been a Councillor, the Acting Commissioner would have suspended him for 3 months.

The Acting Commissioner, with some hesitation, decided on censure as being more proportionate on the circumstances of Councillor Boyle's breaches of the Code.

The Acting Commissioner's decision, made under Section 59(3)(c) of Part 9 of the Local Government Act (Northern Ireland) 2014, was to censure Councillor Boyle, in the strongest terms, about his failures in public office.

3.3 Key issues raised in the report

- Councillors must absolutely understand the Code and its Guidance. It is their public duty to do so and, whilst it is appropriate to take advice from officers, it is for Councillors to decide whether there is a conflict of interest.
- All Members are required to register their interests within 28 days and to update the register when circumstances change.
- Officers should ensure that any insufficiency in terms of what has been noted in the register should be brought to the attention of the relevant Member immediately.
- The Code requires that a Member must withdraw from a meeting whilst a matter in which a pecuniary interest has been declared is discussed.
- A failure to declare a pecuniary interest (direct or indirect) may result in a sanction of disqualification. This is a serious conduct matter which is underpinned by section 28 of the Local Government Act 1972.
- Such breaches of the Code, whereby interests are not registered or declared, or where interests are declared but a Member nevertheless remains at a meeting in full, do have the potential to impact on public trust and confidence in the councillor and the work of the council as a whole.
- The Code applies to Members at all meetings of the council, including AWGs. There is therefore the same requirement for Members at those meetings to declare all pecuniary and/or non-pecuniary interests and that all such declarations be recorded.
- There is an equal duty on Councils and their officers to ensure that Members are properly trained for their role, including regular refreshers, in part drawn on the outcomes of such Adjudication Hearings.

3.4 Previous guidance provided to Members

Members will note that the findings of the report confirm the guidance which has been provided previously to Members in relation to the registration and declaration of interests. A report setting out the position in relation to this issue was presented to SP&R Committee in October 2016. A copy of the minutes is attached at Appendix 2.

Councillors are required to disclose, or to declare, their personal interests where they relate to a matter coming before a meeting of the council, including a meeting of a committee or a subcommittee.

The fact that a Councillor has disclosed an interest in the Register of Interests does not exempt the Councillor from a duty to declare the interest when it arises at a meeting of the Council.

The requirement to declare such relevant interests also applies in Area Working Groups, Members' dealings with council officers and in unofficial relations with other councillors.

The report indicates that Councillor Boyle correctly registered his interest in his properties in the Holylands area at a number of Council meetings and that this was in accordance with advice provided by the Chief Executive that he make declarations in respect of a specific geographical area in the city.

	<p>The report also makes reference to advice provided to Councillor Boyle by Council officials, including the Town Solicitor, that in circumstances where his properties would not benefit any more than other council constituent in relation to a proposal, then he did not need to make a declaration.</p> <p>Members should note that the advice provided by the Town Solicitor was appropriate and remains valid. It is up to the individual Member to examine each specific matter in hand and to consider whether they have a direct or indirect pecuniary interest in the matter.</p> <p>Members are reminded that any consideration as to whether to declare an interest (pecuniary or non-pecuniary) must not only be based on the individual member's opinion as to whether they would benefit or otherwise from participating in the discussion but must also consider whether the public perception would be that they might benefit or otherwise from participating.</p>
3.5	<p>Recommended Actions for the Council</p> <p>Members are asked to agree to the following actions:</p> <ul style="list-style-type: none"> • This report will be circulated to all Members and also those officers who would normally be involved in the process of registering or declaring interests. • Updated Written Guidance on the Declaration and Register of Interests will be provided to all Members and relevant officers • Officers will deliver a refresher training session focusing on the Register and Declaration of Interests which will be available to all Members in advance of the next Local Government Election in 2023. A refresher will be offered to all new Members following the election as part of their induction process.
3.6	<p><u>Financial & Resource Implications</u></p> <p>No financial or resource implications attached to this report.</p>
3.6	<p><u>Equality or Good Relations Implications/Rural Needs Assessment</u></p> <p>Any equality, good relations and rural needs assessments implications will be subject to the usual screening processes.</p>
4.0	<p>Appendices</p>
4.1	<p>Appendix 1 – NI Local Government Commissioner for Standards Report “In the Matter of former Councillor Declan Boyle”, Belfast City Council</p> <p>Appendix 2 – Minutes of SP&R Committee meeting – 21st October 2016</p>