



Code of Conduct reference COC090

Complaint against Councillor Ewen Sinclair of Ledbury Town Council

Final Investigation Report REDACTED

Introduction

1. This is a report by Deborah Nickson, Senior Governance Lawyer, for the Monitoring Officer at Herefordshire Council, into a complaint presented by a member of the public, David Thomas (hereinafter referred to as 'DT') against Councillor Ewen Sinclair, who has been a member of Ledbury Town Council since October 2021.
2. I am a solicitor with over thirty years' post qualified experience, all of which has been in local government since 1996. In my previous role, I was deputy monitoring officer for over six years. I am not employed by Herefordshire Council but have been engaged on an interim basis.
3. I have been asked by Herefordshire Council's Monitoring Officer to investigate this complaint. The Monitoring Officer has responsibility for deciding any outcome from this report, following consultation with two Independent Persons.

Legislation under which the investigation is being carried out

4. The system of regulation of standards of councillor conduct in England is governed by the Localism Act 2011. Local authorities must have a Code of Conduct for councillors, which must be consistent with the 'Seven Principles of Public Life', selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
5. Under s28 (6) of the Localism Act 2011 the Council must have in place arrangements under which allegations can be investigated, and arrangements under which decisions on allegations can be made.
6. Under s28 (7) Arrangements must include provision for the appointment by the authority of at least one independent person whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate.
7. Section 27 (2) of the 2011 Act states: In discharging its duty under subsection (1), a relevant authority must adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. Therefore, the Code applies only when a councillor is acting in their capacity as a councillor.

Summary of complaint:

8. Ledbury Town Council adopted the Code of Conduct of Herefordshire Council in December 2022 and a copy of the Code of Conduct is linked here: [Code of Conduct approved Dec 2022.pdf](#)
9. 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.

10. The complainant alleged that Councillor Sinclair has failed to observe the Code of Conduct for members, adopted by Ledbury Town Council, by the following alleged conduct:
- (i) The complainant alleged that Councillor Sinclair's conduct towards him, in an incident that took place on 17 September 2024, was disrespectful and harassing.
 - (ii) The complainant alleged that Councillor Sinclair's subsequent email to seventeen recipients, dated 19 September 2024, was in breach of the code of conduct since it disclosed confidential information and was disrespectful.
 - (iii) The complainant alleged that Councillor Sinclair's conduct brought his role or local authority into disrepute.
11. 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 in light of Councillor Sinclair's email to the seventeen recipients, referred to above, I was of the view that paragraph 6.1 of the Code of Conduct, and the following general principles were engaged:
- (iv) I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else;
 - (v) I act with integrity and honesty;
 - (vi) I lead by example and act in a way that secures public confidence in the role of councillor.

Relevant sections of the Code:

12. In summary, I therefore considered the following paragraphs of the Code of Conduct:
- 1.1 I treat other councillors and members of the public with respect
 - 2.2 I do not harass any person
 - 4.1 I do not disclose information which I believe or ought responsibly to be aware of, is of a confidential nature
 - 5.1 I do not bring my role or local authority into disrepute
 - 6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else
13. I also considered the following general principles under the Code of Conduct:
- I act with integrity and honesty
 - I lead by example and act in a way that secures public confidence in the role of councillor.
14. A copy of the code of conduct is attached here: [Code of Conduct approved Dec 2022.pdf \(ledburytowncouncil.gov.uk\)](#)

Events giving rise to the complaint

15. A chronology of relevant events is annexed to this report as Appendix 1.
16. The complainant referred to an incident that took place on Tuesday 17 September 2024 at about 5pm, when he was outside his place of work with a colleague. The complainant says that he saw Councillor Sinclair and another councillor, Councillor Tony Bradford

(hereinafter referred to as 'TB'), walking towards him and that they stopped directly in front of him.

17. The complainant says that Councillor Sinclair looked directly at him and said to TB, in a mocking tone 'I know, let's go to The Barn for a drink tonight' and was laughing at the complainant. The complainant was extremely upset by this, due to events that he says led him having to leave his home, due to circumstances concerning The Barn and his complaint against that establishment for noise nuisance, over a number of years. The complainant says that Councillor Sinclair was aware of this context.
18. The complainant admits that he lost his composure and followed Councillor Sinclair and TB down the road, intending to catch up with Councillor Sinclair to tell him that he would regret what he had said because the complainant intended to report the incident to Ledbury Town Council and to the Police.
19. Following the incident, the complainant was made aware of an email that Councillor Sinclair sent from his private email address, at 23:46 on 19 September 2024, to seventeen people entitled 'Winding People Up'. The recipients included the owner of The Barn (first recipient); the chairman of North Herefordshire Conservative Association ('NHCA'), (sent to his private email address) and various other accounts including councillors of Ledbury Town Council and Herefordshire Council (all sent to their private email addresses). Attached to the email was a PDF document entitled 'Don't Mention The Barn', which was a copy of the complainant's brother's complaint to Ledbury Town Council about the incident on 17 September 2024, and which featured his brother's personal contact details, which were thus shared with the seventeen recipients.
20. The email in question was also provided to me by Councillor Sinclair. It was sent from his personal email account and said:

Subject: 'Winding People Up'
'Winding people up is fun, I got a spectacular bite on Tuesday. Please read the attached; for mentioning The Barn, I am being reported to the police and monitoring officer. This nutter ran down the road after Tony and myself, he was very 'threatening' and got very upset because I laughed at him. The idiot went visited the LTC office, to complain, to be told they can do nothing. His brother reported me to the Chief Exec of Herefordshire Council and the police, how scary. Even better, he reported me to Bill Wiggin MP, he must have been getting advice from REDACTED, the NHCA chairman, who loves a good liar. The imbecile, with the Union Flag, the wrong way up!'
21. The email included a photograph of the former Mayor of the Town Council holding the Union flag that is referred to, attending an event that I understand was the Ledbury Rally.
22. The complainant says that he was shocked when he saw this email and was concerned about Councillor Sinclair's use of language, referring to him as a 'nutter', an 'idiot' and a 'liar'.
23. The complainant's brother, Jonathan Thomas ('JT'), reported the incident to West Mercia Police, reference number CDS-143573-24-2200-002. No further action has been taken, so far as the police are concerned.
24. On 20 September 2024 Councillor Sinclair reported the incident to the West Mercia Police [and received a response dated 25 September 2024.

25. On 25 September 2024, the complainant made a complaint to the Monitoring Officer, alleging that Councillor Sinclair had breached Ledbury Town Council's Code of Conduct.

26. At initial assessment stage, the Monitoring Officer considered the complaint was unsuitable for informal resolution and, having consulted with the Independent Persons, the Monitoring Officer decided that the matter should proceed to formal investigation.

27. The matters that I have been requested to investigate are:

The incident that took place on 17 September 2024, outside **REDACTED** in Ledbury between Councillor Sinclair and complainant

The subsequent email to seventeen recipients, dated 19 September 2024, entitled 'Winding People Up'.

The email referral to the Police on 20 September 2024.

Evidence

28. In reaching my conclusions to this investigation, I relied on the following evidence: -

- Chronology of events (Appendix 1)
- Complaint dated 25.09.24 (Appendix 2)
- Email 19.09.24 from Councillor Sinclair to seventeen recipients headed 'Winding People Up' (Appendix 3)
- Attachment to email dated 19.09.24 headed 'Don't mention The Barn' (Appendix 4)
- Emails between Councillor Sinclair and West Mercia Police dated 20.09.24 (Appendix 5)
- Witness statement submitted with complaint by JT dated 25.09.24 (Appendix 6)
- Response from Councillor Sinclair dated 07.10.24 (Note of telephone conversation: Appendix 7)
- Interview with the complainant's colleague, 'X' dated 22.10.24 (Note of interview: Appendix 8)
- Interview with complainant dated 23.10.24 (Note of interview: Appendix 9)
- Interview with the complainant's brother, JT, dated 23.10.24 (Note of interview: Appendix 10)
- Interview with witness, Councillor Tony Bradford ('TB') dated 29.10.24 (Note of interview: Appendix 11)
- Note of telephone call with TB dated 06.11.24 (Appendix 12)
- Interview with Councillor Sinclair dated 06.11.24 (Note of interview: Appendix 13)
- Note of telephone call with DT dated 11.11.24 (Appendix 14)
- Minutes of Ledbury Town Council Planning and Economy Committee dated 19.05.22: [Planning--Minutes-19.5.22-FINAL.pdf](#)
- Statement of DT dated 19.05.22, referred to in the Minutes of Ledbury Town Council's Planning and Economy Committee dated 15.05.22 (Appendix 15)
- Statement of JT dated 19.05.22, referred to in the Minutes of Ledbury Town Council's Planning and Economy Committee dated 15.05.22 (Appendix 16)
- Minutes of Ledbury Town Council Planning and Economy Committee dated 08.09.22: [Planning-Minutes-8-September-2022-Signed-F.pdf](#)

- Statement of DT dated 08.09.22, referred to in the Minutes of Ledbury Town Council's Planning and Economy Committee dated 08.09.22 (Appendix 17)
- Consideration of comments received on draft report (Appendix 18)
- Email referred to by Councillor Sinclair in his comments on the (Appendix 19).

29. A draft of this report was provided to Councillor Sinclair and to the complainant. Comments were received from each; they were considered and are reflected in this final report. A schedule of the comments is included as Appendix 18 to this report.

Evidence of DT

30. I interviewed the complainant, DT, by telephone on 23 October 2024 and an agreed note of our meeting is attached as Appendix 9. DT confirmed that he is the complainant in this case.
31. The complainant's written complaint (Appendix 2) presented a detailed context to the incident on 17 September 2024. I said that I would like to ask DT about the following issues: the incident that happened on 17 September 2024; the background and context to the incident; and the impact of the event and subsequent events on DT.
32. I asked DT about the background to the incident, involving past events concerning The Barn. DT explained that he had lived in Ledbury for nearly 50 years and had, until April 2024, lived in a flat opposite to a venue known in Ledbury as The Barn. DT had lived in his flat for 18 years. The Barn is a property which was previously owned by Herefordshire Council and is situated opposite to DT's former home. In 2018 the property was purchased by the current owner, who converted it to a social venue, which hosts live music events. This attracts crowds every weekend and was quickly a source of concern to DT, due to the level of noise created. DT described a situation in which he was unable to stay in his home at weekends, due to the noise from The Barn, and he was unable to relax in his home.
33. The background is more fully described in DT's complaint, and he also referred to statements he had lodged in support of his complaints about noise (Appendices 15-17). In summary, DT told me that the impact of this situation was severe, including in terms of his mental and physical wellbeing. DT said that he sought the support of his GP, being anxious and unable to sleep, and was prescribed anti-depressants, which he had never required previously. He said that his entire life had been adversely affected, including the impact on his relationships and indeed, personality, which DT described as entirely changed by these events.
34. In April 2024, DT moved to another residence in Ledbury, since his complaints about The Barn had ultimately been unsuccessful, and the venue continues to operate to date, having had its licence restored in 2023.
35. I asked DT to describe the incident on 17 September 2024. DT confirmed that he is the Manager of **REDACTED** shop, in Ledbury. He has worked at the shop for seven years and has been the Manager for two years. On 17 September 2024, DT was working with his colleague, X. Just before the shop was due to close at 5pm, DT and X were preparing to close for the day, which involved going in and out of the shop premises, to bring in display tables that are situated outside the shop.
36. Whilst they were outside, DT saw two men, whom he knew to be Councillor Ewen Sinclair and Councillor Tony Bradford ('TB') walking towards him. DT said that he knew Councillor Sinclair as a councillor, although not to speak to. He said he had seen Councillor Sinclair in

the papers from time to time, and he knew him to be a supporter of The Barn during enforcement proceedings concerning its licence; he had also seen Councillor Sinclair's campaign leaflets when he stood as a candidate for Herefordshire Council. DT said he knows TB as a councillor and knows him well enough to say hello and chat to.

37. DT said that Councillor Sinclair and TB stopped directly in front of him and Councillor Sinclair said to TB 'I know, let's go to The Barn for a drink tonight'. DT described Councillor Sinclair as laughing at him, and almost 'gurning' when he said this.
38. I asked whether it was possible that DT had simply overheard a private conversation. DT was certain that this was not the case because the two men stopped directly in front of him, DT said that Councillor Sinclair was laughing at him and in DT's observation, intended DT to hear what he said.
39. I asked what TB's demeanour was during the incident. DT said that TB was neither laughing, nor did he say anything.
40. I asked DT how he was sure, as he had stated in his complaint, that Councillor Sinclair would know that his comment would upset DT. DT said he believed Councillor Sinclair would know this because firstly, as a Ledbury Town Councillor, he would be aware of DT's complaint about The Barn, since the issue was one that was raised at the Town Council meetings, at which DT had spoken on more than one occasion. He said he made statements at Ledbury Town Council meetings and was open about the adverse impact on him, of events concerning The Barn. Secondly, DT said that Councillor Sinclair is a friend of the owner of The Barn, who dislikes DT due to his complaints about The Barn, and whom DT says continues, to the present date, to 'goad' DT by laughing at him and pointing him out to others in passing.
41. DT explained that the comment made by Councillor Sinclair caused him to lose his composure. He linked this to what he had told me about the impact of events on his personality, which he felt included a reduced ability to manage such situations without losing his composure.
42. DT said that he went back into the shop initially but was so upset by the incident, that he left the shop to follow Councillor Sinclair and TB, intending to tell Councillor Sinclair that he would be reporting the incident to the police.
43. DT said that he noted that Councillor Sinclair and TB had turned right in Harling Court after they walked on from the shop. With reference to Councillor Sinclair suggesting, in his email to others after the event, that DT ran after them, DT said Councillor Sinclair would not have been able to say this, since he was out of sight. DT said he did not run but he did follow them into Harling Court.
44. I told DT that Councillor Sinclair referred, in his response to the complaint, to DT's use of bad language. DT said he was not able to recall what he said exactly. DT said he told Councillor Sinclair that he would regret what he had said because DT intended to report the matter to the police. DT said Councillor Sinclair took his phone out of his pocket and DT wondered if he was going to record the conversation. DT said Councillor Sinclair was laughing at him throughout.
45. I asked DT what TB's demeanour was at this point. DT said TB was not laughing and did not say anything, though he did not intervene.
46. DT said that he then went back to the shop to continue closing it. He then went to visit his mother, who lives nearby. He told me he did not tell her what had happened, not wishing to

upset her. He did, however, tell his brother, JT, what had happened. DT said that he found the recent incident extremely upsetting, disrespectful and intimidating.

47. DT said that he reported the incident to the police on 19 September 2024 but received no response.
48. I asked DT what had happened after the incident on 17 September 2024. DT told me that he was made aware, on the morning of 20 September 2024, of an email that Councillor Sinclair had sent to seventeen recipients on the evening of 19 September 2024.
49. I asked DT how he was made aware of the email dated 19 September 2024. DT said that a customer of the **REDACTED** shop, whom DT knows as an acquaintance, was one of the recipients of the email. DT said he was shocked when he read the email, and at the number of recipients included. DT said that Councillor Sinclair's use of words such as 'nutter' supported his belief that Councillor Sinclair was aware of the background concerning The Barn and the fact that his comment would upset DT. He was not sure who the word 'liar' referred to; he believed it to refer to either himself or his brother.
50. I asked DT whether he had had any further communication with Councillor Sinclair since the incident on 17 September 2024 and DT said he had not.
51. Following my interview with Councillor Sinclair, I contacted DT to ask him whether he recalled an incident prior to that which occurred on 17 September 2024 where he approached Councillor Sinclair as he was getting into his car (Appendix 14). DT confirmed that he recalled that he saw Councillor Sinclair and Councillor Bradford walking down New Street around six months ago, and he went up to Councillor Sinclair to ask him why he supported The Barn, knowing the issues about noise and licence problems. DT told me that he could not recall the detail of the conversation, though he said he did raise his voice, and he thought he called Councillor Sinclair 'a moron' but he did not think he was shouting. He recalled Councillor Sinclair replying to his question, that he enjoyed going to The Barn. DT could not recall any more detail because he said it was quite a long time ago.
52. I also asked DT on 11 November 2024 what he recalled about him speaking to TB the day after the incident but, reflecting TB's recollection of the event, DT said it was not challenging at all, and that he frequently talks to TB, who often walks past the shop.

Evidence of Councillor Sinclair

53. I met with Councillor Sinclair at Ledbury Town Council offices on 6 November 2024. A note of our meeting is attached as Appendix 13. Councillor Sinclair did not agree the note of the meeting. Councillor Sinclair confirmed that he is a member of Ledbury Town Council, and the subject member of the complaint.
54. Councillor Sinclair said that the complaint is about matters that occurred when he was not acting in his capacity as a councillor, and I explained that part of the investigation is to determine if that is the case.
55. I confirmed that I wanted to discuss four areas with Councillor Sinclair:
 - (i) The background and context to the incident on 17 September 2024;
 - (ii) The incident on 17 September 2024;
 - (iii) Councillor Sinclair's email to a number of recipients on 19 September 2024
 - (iv) Councillor Sinclair's reporting of the matter to West Mercia Police.

Background

56. I asked Councillor Sinclair to explain the background to the incident, with reference to The Barn. Councillor Sinclair said he encountered DT in Ledbury last summer, when Councillor Sinclair was getting into his car, opposite the Co-op in New Street. Councillor Sinclair said that DT started screaming and shouting at him, saying 'you like going to The Barn don't you'. I asked Councillor Sinclair if by 'summer' he meant 2023 or 2024. Councillor Sinclair wasn't certain but thought it was about 3 months ago. Councillor Sinclair told me that, at the time, he didn't understand what DT's behaviour, which he described as completely unprovoked, was about.
57. I asked Councillor Sinclair what he knew about the impact of past events concerning The Barn on DT. Councillor Sinclair said he understood there was an ongoing 'feud' between DT and the owner of the Barn. Councillor Sinclair said that the owner of The Barn is a friend of his and that he does attend live music at The Barn. Councillor Sinclair said that he spoke to the owner of The Barn, his friend, and then understood the context around DT trying to get The Barn's licence revoked. Councillor Sinclair said he had 'no idea about' past events other than what his friend told him.
58. I asked Councillor Sinclair about our conversation on 07 October 2024 (Appendix 7), when Councillor Sinclair told me that he spoke as he did to DT on 17 September 2024, intending to 'bait' and 'goad' him. Councillor Sinclair confirmed that this was correct, and said he made no bones about that. Councillor Sinclair recalled that he said to Cllr Bradford ('TB'), something like 'The Barn is open tonight do you fancy going for a drink'.
59. I asked Councillor Sinclair how he knew his comment to DT would 'wind him up' and Councillor Sinclair said he knew this because of the previous incident where DT had shouted at him. Councillor Sinclair said that he didn't understand it would work as spectacularly as it did, but he thought DT's behaviour was shocking.
60. I asked Councillor Sinclair why he wanted to 'bait' DT at all, and he told me this was because DT had shouted at him some months previously. Councillor Sinclair told me he had no idea about DT's state of mind.

Incident on 17 September 2024

61. I confirmed with Councillor Sinclair that the incident took place on 17 September 2024, as there was an error in his email referring the matter to the police.
62. Councillor Sinclair told me that, on 17 September 2024, he had been in The Feathers with Tony Bradford (TB), who is also a Ledbury councillor. Councillor Sinclair said he had been in The Feathers for about 1-1 ½ hours and had had only tea to drink. Councillor Sinclair told me that he had been friends with TB since before he became a councillor. TB had been in The Feathers a bit longer than he, and TB had left first and went to Boots. They then bumped into each other as Councillor Sinclair left The Feathers, and they walked together towards **REDACTED** shop.
63. Councillor Sinclair said DT was near the doorway as they approached, and Councillor Sinclair said in a matter of fact way to TB something like 'The Barn is open do you fancy a drink'. He says DT then screamed 'you twat' at the top of his voice and shouted, 'you moron'. Councillor Sinclair told me that he did not raise his voice, but he did intend DT to hear the conversation. He said he intended to 'bait' DT and intended it as 'a wind up'. Councillor Sinclair said he felt this was a perfectly reasonable thing to do, due to DT previously shouting at him.
64. I asked when a plan to 'wind up' DT formed in Councillor Sinclair's mind, and he told me there was no forward planning, it just 'shot into his head' as he was walking along.

65. Councillor Sinclair confirmed my understanding that there were two parts to the incident - outside the shop and then after turning off New Street. Councillor Sinclair recalled that DT was shouting at the shop and that a woman at **REDACTED** tried to calm DT down; he did not know her but assumed she was doing this due to what he felt was an 'overreaction' on DT's part.
66. Councillor Sinclair said that he and TB were going to look at a van at Harling Court and had turned right off New Street into Harling Court. He said they heard footsteps behind them and after about 20 metres into the Harling Court, Councillor Sinclair said he turned and saw DT and asked what the matter was. He said that DT continued to 'hurl abuse' and he and TB left him there and walked on.
67. I asked Councillor Sinclair whether he had laughed at DT, and he confirmed he did. Councillor Sinclair said he had wanted to wind DT up because DT had shouted at him previously. He said that it wasn't vengeful but was intended as a wind up.
68. Councillor Sinclair said that TB was shocked by the incident, although he has not discussed that much with TB and that it didn't take long for them to get over it. I asked whether he had been worried about TB, noting that the referral to the police mentioned TB's age. Councillor Sinclair said TB is perfectly capable of looking after himself, noting that he had spent time with the South Africa Defence Force.
69. I asked if Councillor Sinclair had been worried for himself and he told me he had not been, since he is 'fairly robust'. Councillor Sinclair said he didn't feel threatened since he has been in dodgy situations before and someone shouting at him in Ledbury doesn't come up the scale.

Email dated 19 September 2024

70. I next talked to Councillor Sinclair about the email that he sent on 19 September 2024 to seventeen recipients. I asked firstly why Councillor Sinclair had sent the email and he told me that his comments about the flag were intended to wind up the chair of the North Herefordshire Conservative Authority ('NHCA'), whom Councillor Sinclair said had been told a pack of lies but believed them without question, hence the reference in the email to 'loves a good liar'.
71. I asked whether Councillor Sinclair meant that the email was not about the incident involving DT. Councillor Sinclair said he wanted to be clear about the context and explained that the email refers to complaint COC045 submitted the former Mayor of Ledbury Town Council ('Y'). Councillor Sinclair said that Y, in her capacity as a Herefordshire councillor was fully briefed about the things about the War Memorial that went wrong. Councillor Sinclair said that, as a Town Councillor and Mayor, Y had joined with people who had lied about the war memorial against him.
72. I expressed surprise with this explanation for Councillor Sinclair having sent the email on 19 September 2024, and asked if I may check my understanding, noting that the first two lines refer to the incident on 17 September 2024. Councillor Sinclair said that I was misunderstanding the context, and he explained that the important bit in his email is '*he must have been getting advice from **REDACTED**, the NHCA Chairman, who loves a good liar. The imbecile, with the Union Flag, the wrong way up!*' Councillor Sinclair said that 'the imbecile' was Y, and the email was about Y, whom Councillor Sinclair was referring to as a liar.

73. I asked why Councillor Sinclair included 17 recipients to the email and he told me that the vast majority are members of NHCA and it was not a public email. Councillor Sinclair said it was sent intending to raise Y's part in COC0045 and that the email was about the War Memorial. The reference to 'liar' is about Y, who Councillor Sinclair said was fully briefed and had changed sides. Councillor Sinclair said the email was sent with reference to COC045, because of Y and **REDACTED**, and the War Memorial.
74. I asked why the email was sent so late in the evening and Councillor Sinclair explained that he had been to a council meeting that evening, which did not finish till 9.30pm. Councillor Sinclair could not remember if the lerk was copied in, but said he had already telephoned the lerk, because he thought it possible that DT might come into the office to complain about him.
75. I asked whether Councillor Sinclair thought the recipients of the email would have understood the context that he had explained to me, noting that on its face, it appeared to be about the incident with DT. Councillor Sinclair acknowledged that quite a few people had telephoned him to ask what the email was about, and he told me that his wife had said he been far too cryptic. Councillor Sinclair said he had told those who asked, that the email was not about the incident, it was about the lies told by Y. Councillor Sinclair said that his intention, in sending the email, was to shine a light on the War Memorial and Y's role in that, in that she told **REDACTED** a pack of lies and he believed them.
76. I asked, in light of this, why Councillor Sinclair referred to DT as 'this nutter' and 'idiot'. Councillor Sinclair explained that when someone screams 'you twat' and 'you moron' at top of their voice, he doesn't know how else you would describe them.
77. I asked whether Councillor Sinclair considered the impact of deliberately winding DT up, and whether he felt it had been fair to goad DT. Councillor Sinclair told me that there was no point goading DT if he didn't think it would work. Councillor Sinclair said he would not wind people up if it was not going to work, saying 'the only people who are worth winding up are those who will rise to the bait'. Considering this opinion, I asked whether Councillor Sinclair thought deliberately winding someone up could be justified, and he said yes, if someone calls you a twat and moron at top of their voice. He said that it was an overreaction of epic proportions by DT. Councillor Sinclair said that he suspected a reaction but not one as volatile as it was.
78. I asked whether Councillor Sinclair recalled DT coming to Ledbury Town Council meetings in 2022 to discuss The Barn. Councillor Sinclair noted that he had already explained in his written response to the complaint that he was not present at those meetings.

Email referral to the Police 20 September 2024

79. I went on to ask Councillor Sinclair about his reporting the incident to the police and asked why he had done so. Councillor Sinclair confirmed that he did this on advice from a friend because he was aware that DT's brother had reported the incident to the police. Councillor Sinclair reported the incident to PC Jack Davies of West Mercia Police, Safer Neighbourhoods Police Officer (SNPO). Councillor Sinclair confirmed that no further action had been taken.
80. Councillor Sinclair said he waited till 20 September 2024 to report the matter because he did not know until then that it has been reported. Councillor Sinclair was not certain at first but upon discussion confirmed he made the report after receiving notification that DT's brother had referred the incident to the police. Councillor Sinclair said he wanted to put his side of the story.

81. Councillor Sinclair said he made the referral to a named officer, PC Davies, because this officer had come to a number of Ledbury Town Council meetings, and there is a close connection between the policing team and the Town Council.
82. I said to Councillor Sinclair that I had noted that the referral to PC Davies did not describe the incident in similar terms to the email to the 17 people on 19 September 2024, nor to the conversation I had had with Councillor Sinclair on 7 October 2024. I asked why the referral made no reference to Councillor Sinclair goading, laughing at, or baiting DT. Councillor Sinclair said that he did not say that in the referral, because he did not consider it was relevant.
83. I asked Councillor Sinclair whether he thought, on reflection, that reporting the incident to the police but not making the point about having 'goaded' and 'baited' DT gave the police all the relevant information and Councillor Sinclair said that he did not think that made any difference. He said that he did not make a decision to leave out these points out, but it made no difference. I expressed surprise, and suggested the information seemed key to the incident. Councillor Sinclair was clear that, in his view, it was not and the two were 'totally unrelated'; he said that free speech allows winding people up, so it is not relevant to the police. Councillor Sinclair said he thought that what was relevant was DT having run after him and TB and screamed at them.
84. Councillor Sinclair confirmed the email was sent in response to the email he received from DT's brother and said that my assumption was correct, in that the email was written in some haste because he had been surprised that a report had been made about him, since winding people up is not a crime in this country. Councillor Sinclair explained that a number of assumptions had been made him ie. DT's brother assuming Councillor Sinclair knew something about his brother, but Councillor Sinclair said he didn't know anything about these things.
85. I asked Councillor Sinclair about him saying, in his email to police: '*...Neither of us were acting in our capacity as councillors*' and I asked why he said the incident was not to do with Ledbury Town Council but sent it from his council email account. Councillor Sinclair said that he did not think about it at the time. He said that PC Davies' email address was in his council email address book, so he just sent it from there. Councillor Sinclair said it was nothing to do with him being a councillor or with council business.
86. I asked why Councillor Sinclair copied in the clerk and Councillor Chowns. Councillor Sinclair said this was because he was aware that DT or his brother had been to Ledbury Town Council offices about making a complaint against him, so it was relevant to them.
87. I asked Councillor Sinclair about the part of the email to the police where he said that the next day, DT shouted at TB. Councillor Sinclair said this was what TB told him the next day, although Councillor Sinclair was not there. Councillor Sinclair said TB told him he had been walking up New Street and DT started shouting at him.
88. Councillor Sinclair stated that he wanted to make the SNPO aware of what had happened because he was not the only person who had been shouted at by DT. Councillor Sinclair said he later found out DT has shouted at others. He said he was also aware that a report had been made to the police and there was a crime number, so he did not want neighbours to see the police knocking at his door.
89. I asked whether Councillor Sinclair considered his police report included full enough details, and he confirmed that it did. Councillor Sinclair says if you wind someone up and they hit you, unprovoked, then that is a crime. If you wind someone up and they shout, it's a public order offence.

90. I asked whether Councillor Sinclair wanted to highlight anything else that we had not covered, and he confirmed his view that the complaint did not concern council business, he was not acting as a councillor, and this was nothing to do with Ledbury Town Council. Councillor Sinclair said he was astonished we were there and that he considered it to be a waste of Herefordshire Council's resources and an inconvenience to everyone to be here.

Evidence of JT

91. I met with the complainant's brother, Jonathan Thomas ('JT') on 23 October 2024 and an agreed note of our meeting is attached as Appendix 10.
92. JT had supplied a written statement in support of the complaint (Appendix 6), which I had read, and in which he described the background to the case from the complainant's perspective.
93. I explained that I wished to ask JT about the background and context to the incident that happened on 17 September 2024; and about the impact on DT. I explained that, since JT did not witness the event on 17 September 2024, this would not be part of the interview, which JT understood.
94. I asked JT about the background to the incident, involving past events concerning The Barn. JT described a close family relationship with his brother, DT, which, over the past five years, had included a high level of support in relation to events concerning The Barn. JT explained that those events had had a severely adverse impact on DT's mental and physical health. He said that DT's experiences had changed him, reducing him to an angry and depressed person, with less ability to manage his emotions. JT highlighted his expertise as a mental health professional himself, which he felt enabled him to make credible observations about his brother's experiences. He said that DT sought help from his GP and was prescribed anti-depressants, at a point where the situation was 'eating him alive'.
95. I asked whether JT knew Councillor Sinclair and JT told me that he knew that he is a councillor but no more than that.
96. I asked JT how he was sure, as he had stated in his witness statement for the complaint, that Councillor Sinclair would know that his comment would upset DT. JT said that in his view, the heading of Councillor Sinclair's email, 'Winding people up', clearly demonstrates his knowing this. JT posed the question why else would Councillor Sinclair head his email in this way? JT believed Councillor Sinclair's comment was intentionally voiced to 'wind up' DT and that the heading very clearly demonstrated that.
97. JT added to this by saying that he was sure Councillor Sinclair would know the comment would upset DT because the first recipient of the email that Councillor Sinclair sent on 19 September 2024 is the owner of The Barn, who JT understands to be a friend of Councillor Sinclair's. He said that he thought it was significant that Councillor Sinclair included the owner of The Barn as the first recipient, suggesting Councillor Sinclair wanted him to know what had happened. JT said that Councillor Sinclair supports The Barn and promotes it on his Facebook page.

98. JT also believed Councillor Sinclair would know the history of events through his role as a councillor, since those events were matters for Ledbury Town Council's agenda on more than one occasion, and DT's complaint, as well as the personal impact upon him, was well known and documented by Ledbury Town Council.
99. I asked JT how he became aware of the email dated 19 September 2024. JT said that DT gave him a printout of the email, which had been shared with DT by a customer who was a recipient of the email.
100. I asked JT what his observations had been about the email and what steps he took. JT said that he was very alarmed. He knew none of the recipients at that stage, save for the Leader of Herefordshire Council, whose inclusion in the email greatly worried him. JT said he could not think of a good reason for this and was worried about whether something 'corrupt' was going on. I asked JT why he might think that. JT said they had had several communications with the Leader over the past few years, in relation to DT's complaint about The Barn. He therefore had the impression that the inclusion of the Council's Leader was significant and possibly 'sinister'. He said the fact that the Leader is Councillor Sinclair's boss made his suspicions more worrying.
101. I explained that the Leader is not Councillor Sinclair's boss and that, whilst the Monitoring Officer for Herefordshire Council has legal responsibility to consider complaints about the conduct of councillors, including town and parish councillors in Herefordshire, there was no connection between Councillor Sinclair and the Leader. JT acknowledged this and told me that he had received an email from the Leader to say he did not know why he had received the email from Councillor Sinclair, and that he did not condone any behaviour that is disrespectful and found the tone of the email from Mr Sinclair 'totally unacceptable'. However, JT's concerns initially were as described above.
102. JT said that he informed the police about the incident on 17 September 2024 via their website. He wanted advice, in light of DT's mental wellbeing around this issue. JT said that an officer called him back and was helpful but told JT that DT would have to log the incident himself, which DT did.
103. JT told me that he also emailed Councillor Sinclair to tell him the police had been informed of the incident, and he raised a complaint with the Town Council, before supporting DT's complaint under the Code of Conduct to the Monitoring Officer.
104. JT said that he had not had any further communication with Councillor Sinclair since these events in September 2024.

Evidence of X

105. I interviewed the complainant's colleague, X, by telephone on 22 October 2024 and an agreed note of our meeting is attached as Appendix 8.
106. I said that I wished to ask X about an incident that happened on 17 September 2024, and to ask whether X was aware of any relevant context to the incident.
107. X explained that she works at **REDACTED** shop in Ledbury. Her colleague is David Thomas ('DT') whom X was aware is the complainant in this case.
108. I asked X to describe her observations of the incident on 17 September 2024. X said that on that date, she and DT were working at the shop. Just before the shop was due to close

at 5pm, DT and X were preparing to close for the day, which involved going in and out of the shop premises.

109. Whilst they were outside, X said she observed two men, neither of whom she knew, walking past the shop. X said that, as they came up to the shop, one man said 'Oh, let's go to The Barn tonight'. X said this was said in a loud voice, which X believed was raised with the intention of being heard, and she had the impression the man who spoke knew DT.
110. I asked X whether it was possible that the comment had just happened to be said as the men were passing the shop. X was sure this was not the case because she believed the volume that was used was deliberately raised, which she thought was an opportunistic attempt to provoke DT.
111. I asked X why she thought the comment would provoke DT. X said that she is aware, although not in detail, of past events that would mean that DT would be upset by the comment made in relation to The Barn.
112. X said that she continued with the tasks of closing the shop and she went inside. She said that she saw that DT went to speak to the man who had spoken to him, but she did not hear or see anything further.
113. X said that DT came back into the shop quite quickly, and she observed that he seemed upset and cross about what had happened. X said that they did not discuss the matter, but she could see that DT was upset.
114. X said that she thought at the time that the comment was made opportunistically, and that it was childish behaviour. The comment appeared to X to be an unnecessary attempt to provoke DT. X said that she felt that the man who spoke to DT should be ashamed of his behaviour, especially as she now understands that he is a councillor.

Evidence of TB

115. I interviewed a witness, Councillor Tony Bradford ('TB') by telephone on 29 October 2024 and an agreed note of our meeting is attached as Appendix 11.
116. I asked TB to confirm that he is a witness in relation to a complainant by DT in this matter, which he did. I explained that the interview was part of the Code of Conduct complaints process, concerning DT's complaint about Councillor Sinclair. TB was aware of the complaint, having been told about it by Councillor Sinclair. Having been a councillor for many years, TB confirmed his understanding of the process within which the case is being considered.
117. I said that I would like to ask TB about the incident that happened on 17 September 2024 when he was walking through the town with Councillor Sinclair.
118. TB said that he had bumped into Councillor Sinclair when they were each leaving The Feathers Hotel just before 5pm on Tuesday 17.09.24. TB explained that he uses the hotel's meeting room for meetings relating to his councillor duties, on a daily basis. He told me that he had not been with Councillor Sinclair until they met as they were leaving The Feathers. TB said that Councillor Sinclair is a fellow councillor and acquaintance rather than a personal friend.
119. TB said that he and Councillor Sinclair proceeded to walk along New Street in Ledbury; TB told me he was on his way to see a constituent. As they drew up to **REDACTED**, TB

saw the complainant, DT, along with a female colleague; TB said they were outside the shop and appeared to be in the process of closing the shop for the day.

120. TB told me that, when Councillor Sinclair and he were in front of the shop, Councillor Sinclair said something about going to The Barn, which is a pub in Ledbury. TB said that DT immediately took offence and shouted at Councillor Sinclair, calling him names, including a 'big twat'. TB recalled that DT's colleague told him to calm down. Councillor Sinclair and TB walked on and turned off New Street.

121. TB said that he then heard what he thought were running footsteps and then DT came round the corner and continued to call Councillor Sinclair names, before leaving, TB assumed, to go back to the shop.

122. I asked TB what he had said and done during the incident. TB said that he was 'gobsmacked' by what happened and was embarrassed by the event. He told me that he took the view that it was best to say nothing, he therefore kept quiet as he did not want to get involved.

123. I asked TB whether he had felt threatened by the incident. TB said he hadn't but that, had he not known DT, he would have. However, TB explained that he had known DT as a resident for many years and had supported him in relation to the issues with The Barn.

124. I asked TB whether he knew, when he heard it, that Councillor Sinclair's comment about The Barn would upset DT. TB told me that he did know the history regarding DT and The Barn. TB said he supported DT when DT brought the matter to Ledbury Town Council. He recalled a meeting where he supported DT when there was a vote to enable DT to speak for longer than the usual 5 minutes allowed to public speakers.

125. TB said that he would therefore expect the comment to upset DT if it was directed at him, but he pointed out that he could not be sure whether the comment was directed at DT; he observed that Councillor Sinclair said something in DT's earshot and that DT 'went ballistic'. TB said that he did not recall Councillor Sinclair raising his voice but did recall that Councillor Sinclair was laughing at DT.

126. I asked TB what he made of the email he received from Councillor Sinclair on 19 September 2024 headed 'Winding People Up' TB did not recognise this description and did not think he had received this email. I checked and confirmed the email included TB as a recipient. TB confirmed it was his personal email address. However, TB said he receives hundreds of emails, and he simply hadn't seen this one, therefore had formed no view about it at all.

127. I asked TB whether he had seen DT since the incident and TB said he had, as is usual, when he sees DT in the town centre.

128. Councillor Sinclair told the police that DT had shouted at TB on 18 September 2024, the day after the incident. A supplemental question was asked of TB about this allegation, on 06 November 2024, and a note of this is at Appendix 12. TB expressed the opinion that he did not know who had said this and, whilst he had spoken to DT the following day, and DT was 'having a rant' about the incident, TB was not at all concerned and the conversation was not threatening.

Agreed Facts

129. After conducting the interviews as part of the formal investigation, it is evidentially undisputed that the conclusions in paragraphs 130 to 134 are undisputed by either the complainant or Councillor Sinclair.
130. An incident took place on Tuesday 17 September 2024, outside **REDACTED** shop in Ledbury, involving the complainant and the subject member. Councillor Sinclair is clear that he spoke in earshot of DT with the intention of winding up, or goading, DT.
131. The incident was reported to West Mercia Police by DT and JT on 17 September 2024, reference number CDS-143573-24-2200-002. No further action has been taken, nor is any anticipated.
132. Councillor Sinclair sent an email to 17 recipients on 19 September 2024, which was headed 'Winding People Up'. An email trail was attached, as a document headed 'Don't mention The Barn'.
133. The complainant's brother, JT, emailed Councillor Sinclair on 20 September 2024, telling him that he had reported the incident that happened on 17 September 2024 to West Mercia Police.
134. Councillor Sinclair reported the incident that happened on 17 September 2024 to West Mercia Police, on 20 September 2024.

Disputed Facts

135. The main matter of dispute raised by Councillor Sinclair is that he is of the view that all his conduct that is the subject of this complaint, took place in circumstances where he was not acting in his capacity as a councillor and that the Council thus has no jurisdiction to consider the complaint under the Code of Conduct.

Jurisdictional test and legal position:

136. Since Councillor Sinclair responded to the complaint and said that he was not acting in his capacity as a councillor at the time of the conduct complained of, as a preliminary issue I considered the law and relevant case law, to form a view about the jurisdictional test, as follows. Section 27 of the Localism Act 2011 provides that a local authority's code of conduct applies to members 'when they are acting in that capacity.' Thus, if a councillor's conduct took place when they were not acting in their capacity as a councillor, the Code of Conduct would have no application.
137. The courts considered the meaning of acting in the capacity of a councillor in the cases of *(R) Mullaney v The Adjudication Panel for England [2009] EWHC 72 (Admin)* and *Livingstone v APE [2006] EWHC 2533 (Admin)*

These cases were considered under the Local Government Act 2000 prior to its repeal by the Localism Act but the principles set out here remain relevant.

In the Mullaney case, Charles J acknowledged that the issue "*is inevitably fact sensitive and whether or not a person is so acting inevitably calls for informed judgment by reference to the facts of the given case.*"

Charles J stated: '*I acknowledge that there would be advantage in certainty as to where the line is to be drawn between these activities and thus as to when the Code applies and when it does not. But to do that the language of the Code would have to be explained and thus*

added to, paraphrased or qualified and it seems to me that given that it uses ordinary English words (and is based on ordinary English words used in the statute, namely “in performing his functions” see s. 52(2)) this would be inappropriate and would potentially lead to the error being made of applying guidance as to the application of a test as if it was itself such a test.’

In the Livingstone case, Collins J stated, “*official capacity will include anything done in dealing with staff, when representing the Council, in dealing with constituents’ problems and so on.*”

In that case, Mr Livingstone, the then Mayor of London had attended an official engagement in his capacity as Mayor. As he was leaving the function he was confronted by a journalist and Mr Livingstone likened the journalist to a concentration camp guard. The Court held that the comments were not made by Mr Livingstone in his capacity. Collins J stated: ‘*The Tribunal correctly decided that the appellant was not in his official capacity when he made the remarks in question...*’

An allegation of failure to comply with the Code must also be considered in the light of the Human Rights Act 1998. Article 10 of the Convention states:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers...

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of...public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others.

Article 10 rights, in relation to code of conduct allegations, was considered in the case of *Heesom v Public Services Ombudsman for Wales [2014] EWHC 1504 (Admin)*, which recognised that enhanced protection is given to “political expression.”

138. I also had regard to guidance produced by The Local Government Association (LGA) to accompany the Model Councillor Code of Conduct: [Guidance on Local Government Association Model Councillor Code of Conduct | Local Government Association](#).

139. This describes the legal requirement that the Code of Conduct applies to councillors when they are acting in their capacity as a councillor. Guidance at Part 1 ‘Application of the Model Councillors’ Code of Conduct’, says that:

‘The Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- *you misuse your position as a councillor*
- *your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.’*

140. For something to fall within the code there must be a clear link to a local authority function or a councillor’s role as a councillor.

Findings as to whether there has been a failure to comply with the Code:

The incident on 17 September 2024:

141. The complainant alleged that Councillor Sinclair's conduct towards him, in an incident that took place on 17 September 2024, was disrespectful and harassing.
142. The incident outside the complainant's place of work on 17 September 2024 appears to have had no connection to Councillor Sinclair's role as a councillor. Evidence provided by the complainant, by witnesses, and by Councillor Sinclair, made no reference to Councillor Sinclair being a councillor, nor to the business of Ledbury Town Council.
143. The accounts provided to me in evidence demonstrated, in my view, deeply distasteful and opportunistic conduct on the part of Councillor Sinclair. I was in no doubt, on his own evidence, that Councillor Sinclair 'baited' the complainant and laughed at his response to what Councillor Sinclair described as a 'wind up'.
144. The incident caused a foreseeable reaction and distress on the part of the complainant, which I am in no doubt Councillor Sinclair intended, and appeared to enjoy. Despite my efforts to understand this conduct, in interviewing Councillor Sinclair, I remain at a loss to explain why anyone would deliberately 'bait' another person in this way.
145. Nevertheless, in relation to this incident on 17 September 2024, I concluded, after careful consideration of the law and guidance, that Councillor Sinclair was not acting in his capacity as a councillor. Councillor Sinclair was neither performing or transacting a duty or task on behalf of the Council, nor do I consider that a reasonable person would consider that he would be acting in a capacity as a councillor. It appears that Councillor Sinclair was acting in his private capacity in seeing and taking the opportunity to goad someone that he has perceived to have wronged him in the past. However unfortunate this may be, I concluded that the Council has no jurisdiction to consider this part of the complaint.

I DO NOT find this to be a BREACH of paragraphs 1.1 and 2.2 of the Code of Conduct: '1.1 I treat other councillors and members of the public with respect and 2.2 I do not harass any person.'

The email from Councillor Sinclair to seventeen recipients on 19 September 2024:

146. 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.
147. On 19 September 2024, Councillor Sinclair emailed seventeen recipients from his personal email account, with an email headed 'Winding People Up'. The content of the email is undisputed and is as transcribed above. The email included a photograph and an attachment with the heading 'Don't mention the barn'. The attachment was an email trail dated 18 September 2024, being the complainant's brother, JT's, email to the Clerk to Ledbury Town Council, to complain about Councillor Sinclair's conduct on 17 September 2024.
148. 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.

149. In relation to this email, I considered that Councillor Sinclair was acting in his capacity as a councillor for the following reasons.
150. 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 is made to being reported to the Monitoring Officer and the police, and to a complaint being made to Ledbury Town Council.
151. On balance, I considered that a reasonable member of the public with knowledge of all the facts would be given the impression that this concerned council business. If that was not the case, inclusion of councillor recipients was, in my view, difficult to explain.
152. I noted that the email was sent from Councillor Sinclair's personal email account, but I am of the view that this alone was not a determinative factor and created no automatic shield from scrutiny under the Code of Conduct.
153. When I spoke to Councillor Sinclair on 7 October 2024 (Appendix 7) he told me that the email was intended to wind up Herefordshire Conservatives. When I spoke in more detail with Councillor Sinclair on 6 November 2024 (Appendix 13), he appeared quite exasperated that I laboured the question of his motive for sending the email and told me in clear terms that he sent the email with reference to his previous concerns that he has raised with Ledbury Town Council (and documented in the formal minutes of the proceedings of the council) about the War Memorial. This concluded in a previous Code of Conduct complaint, COC045. Councillor Sinclair explained that this email was about the War Memorial, because of the former Mayor, Y, and **REDACTED**.
154. I was therefore in no doubt, from his own evidence, that Councillor Sinclair's email was linked to the business of Ledbury Town Council. I note that several recipients were not immediately cognisant of that context, but that Councillor Sinclair explained it to those who enquired.
155. In terms of the content of the email and its attachment, I find that these overtly and clearly would appear to a reasonable person to refer to the incident that happened between Councillor Sinclair and DT on 17 September 2024. I do not accept that the email was unrelated to the incident, and I considered Councillor Sinclair's evidence on this point to be incomprehensible. He appeared to attempt to reframe his purpose in sending the email, after the event. To suggest it had nothing to do with the incident on 17 September 2024 was at odds with the prima facie evidence and in my view was disingenuous.
156. The language used included pejorative terms to refer to DT, such as 'nutter' and 'idiot', and the description of the incident two days earlier was graphic, insulting and highly disrespectful to the complainant. Most concerning of all was the gleeful description of having been the author of another person's distress, by conduct that was deliberate and unprovoked. I did not accept Councillor Sinclair's purported justification that DT had shouted at him months earlier. In my view, that should have produced a note of caution, if not empathy, to his conduct in relation to DT. However, for Councillor Sinclair it appears to have acted as a catalyst for winding up DT. I consider that he speculated what the reaction would be and, quoting Councillor Sinclair, he got an intended 'spectacular bite on Tuesday'.
157. I could not be sure, from the evidence, the extent to which Councillor Sinclair knew the fragility of DT's mental health prior to the incident, and I am unable to make findings on this point. He was certainly not at the meetings of Ledbury Town Council in 2022, where DT

made statements that left no doubt about the impact events concerning The Barn had had on him, and Councillor Sinclair told me he had 'no idea' about this. However, he told me he is a friend of the owner of The Barn, and was appraised of the background some months ago, at the latest, by his friend.

158. I therefore believe Councillor Sinclair understood very well how his remarks would affect DT; indeed, he told me he set out to 'bait' DT and that 'the only people who are worth winding up are those who will rise to the bait'. I find Councillor Sinclair's conduct on this point to be highly disrespectful and to have no place in public life. Having 'baited' DT on 17 September 2024 and having witnessed the impact of his conduct on DT, his next action appears to be sending a boastful account of the incident. Thankfully some of the recipients have publicly distanced and repudiated the comments made by Councillor Sinclair in that email.

159. The email was copied to seventeen recipients, including councillors, and members of the public. It attached a trail of emails relating to a complaint about Councillor Sinclair's conduct. In my view, this was a flagrant disregard for the right of the complainant to lodge a complaint under the Code of Conduct, and a disclosure of what was obviously confidential information to a large pool of recipients.

160. The complainant was entitled to lodge a complaint and expect that it would be dealt with, no matter the merits, according to due process, and confidentially. In this respect, I find that Councillor Sinclair paid no attention at all to his duty of confidentiality under the Code of Conduct.

161. Considering the broad range of recipients to whom Councillor Sinclair displayed the conduct which I find to breach paragraphs 1.1, and 4.1 of the Code of Conduct, I am of the view that this was conduct that also breaches paragraph 5.1. Councillor Sinclair told me, though he said he could not be specific about numbers, that a number of the recipients of this email contacted him to try to understand what he meant by it. At no time did Councillor Sinclair reflect that his conduct in sending the email was in any way at fault.

162. I considered Councillor Sinclair's rights under Article 10, as referred to above. However, in the context of this email, so far as it concerns a member of the public raising a complaint about a councillor's conduct, I find that it provides no protection to Councillor Sinclair. The commentary is personal and abusive to a member of the public, disclosed without any inhibition to a wide range of people, and in terms of its relevance to the complainant, contains no political expression whatsoever.

I DO find this to be a BREACH of paragraphs 1.1, 4.1 and 5.1 of the Code of Conduct: 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.

Councillor Sinclair's email to the police on 20 September 2024:

163. On 20 September 2024, the complainant's brother contacted Councillor Sinclair and told him that he had reported the incident to West Mercia Police. According to the time shown on emails which were provided to me, Councillor Sinclair reported the incident to the police himself, a few hours later.

164. In his email to the police, Councillor Sinclair refers to the date of the incident as 18 September 2024, not 17 September 2024, as stated by the complainant. However,

Councillor Sinclair's email to seventeen recipients on 19 September 2024, as well as the complainant's evidence, indicates that the incident did take place on 17 September 2024.

165. Councillor Sinclair provided me with a copy of this email trail, including his email to the police. This was sent from his Ledbury Town Council email address, although he says in the email that he was not acting in his capacity as a councillor at the time of the incident. He copied in the Clerk to Ledbury Town Council and two other councillors.
166. The police replied on 25 September 2024, responding to Councillor Sinclair's Ledbury Town Council email address but removing those who had been copied in. Councillor Sinclair forwarded the trail to the Monitoring Officer's team, again copying in the Clerk to Ledbury Town Council and two other councillors.
167. In relation to his email to his email to the police on 20 September 2024, I considered that Councillor Sinclair was acting in his capacity as a councillor.
168. The LGA guidance says:

'In what circumstances might I give the impression to a reasonable member of the public that I was engaged on local authority business?'

When you use or attempt to use your position as a councillor to seek to gain an advantage for yourself or someone close to you or to disadvantage someone this is an attempt to misuse your position and therefore falls within the scope of the Code of Conduct.

A number of factors will need to be taken into account to determine whether or not you had used or attempted to use your position as a councillor.'

An example is given: 'writing to someone on local authority headed paper or using a local authority email address may lead someone to assume you were writing in your capacity as a councillor.'

169. In this instance, Councillor Sinclair emailed the police from his Ledbury Town Council email address. His statement distancing himself from his role by saying that he was not acting in his role as a councillor was not, in my view, determinative. Councillor Sinclair told me that he simply emailed PC Davies from his email address book, which happened to be his council email address. I do not accept this as being a justification and find that, if Councillor Sinclair was mindful, in the moment of writing and sending the referral to the police, to make that point, I can think of no reason why he would use his councillor email address, other than to link his email to his role, in the mind of the recipient.
170. Further, Councillor Sinclair copied into this email the Clerk to Ledbury Town Council and two members. Notably, the police replied to Councillor Sinclair only, but in forwarding the trail to the Monitoring Officer's team, Councillor Sinclair again copied in the Clerk and two members, as recipients to his email.
171. Councillor Sinclair told me that he had PC Davies' specific email address because of the strong links between the police and Ledbury Town Council. It is my view, and I find, that Councillor Sinclair wanted to present his case to the police using his role as a councillor to his benefit. I noted, in contrast, that he used his personal email address in his email on 19 September 2024 to multiple recipients and I find that he was cognisant of the meaning and impact of the use of his personal or council email addresses. I considered that a reasonable

member of the public with knowledge of all the facts would be given the impression that this concerned council business.

172. So far as the content of the email that Councillor Sinclair sent to the police on 20 September 2024 is concerned, I noted that his description of the incident on 17 September 2024 did not include any reference to having deliberately wound up the complainant, to having 'goaded', 'baited', nor laughed at DT. In my view, 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.

173. I spoke at some length to Councillor Sinclair, to try to understand his conduct on this point. Councillor Sinclair was clear in his view that the full circumstances of the incident, as he described it to the recipients of the email on 19 September, and indeed, to me, were of no relevance to the police.

174. I noted Councillor Sinclair's referral to the police included assertions about the level of threat experienced by him and Councillor Bradford; a reliance on a purported vulnerability of TB due to his age; and a suggestion that there had been a further incident the following day, between DT and TB. In interview with me, these assertions were proved to have no basis whatsoever, in fact Councillor Sinclair was very clear about his own and TB's ability to look after themselves, which accorded with my discussion with TB. When enquiries were made with TB about events on 18 September 2024, he expressed surprise and wondered who had said such a thing had happened.

175. I think 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. Councillor Sinclair was at pains to tell me he values honesty, but I find the construction of his reasoning to be disingenuous and that his referral to the police was a deliberate misrepresentation, designed to conceal the full circumstances from the police and to protect himself from any repercussions. I believe this accounts for the haste with which his referral was made, some hours after DT's brother told him a police referral had been made, and which lead him to include an error on the date the incident took place.

176. I was particularly concerned about this part of the complaint, since the referral could have resulted in further action being taken against DT by the police, without their accurate understanding of what had happened.

177. In summary, I find that Councillor Sinclair's conduct, in the manner of his making a referral to the police was not befitting of his role and represents a breach of the general principles under the Code of Conduct.

I DO find this to be a BREACH of paragraph 6.1 and the general principles of the Code of Conduct: 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.

Comments on draft report

- 178.DT said that, in the incident on 17 September 2024, he did not ‘scream’, nor ‘hurl abuse’; and that he disputed how it was suggested that ‘running footsteps’ could have been heard. I considered these points, but they do not affect my findings.
- 179.In his comments on the draft report, Councillor Sinclair suggested that JT should not have been interviewed as a witness, since he did not witness the incident on 17 September 2024, and that to have done so amounted to a predetermination. I consider this to be a misunderstanding of the investigator’s role. Paragraph 93 makes clear the purpose of, and the limits to, my interview with JT. It is specifically noted that he was not a witness to the incident. However, it was JT’s contact with the Clerk to Ledbury Town Council that was shared by Councillor Sinclair on 19 September 2024, and this was part of the complaint. I note Councillor Sinclair’s comment, but it does not affect my findings.
- 180.Councillor Sinclair comments that, as paragraphs 141 to 145 find he is not in breach of the code of conduct, there should not have been an investigation. I highlight that this finding flows from the finding that Councillor Sinclair was not acting in his capacity as a councillor at the time of the incident on 17 September 2024, thus, no finding of breach is possible. In my view, it does not follow that there should have been no investigation, since the investigation also considered events after the incident.
- 181.Councillor Sinclair makes several comments on paragraphs 151 to 155, which reiterate his submission that his conduct had no connection to Ledbury Town Council. He referred to his derogatory comments about the former Mayor and highlighted the connection between his email on 19 September to 17 recipients, and the issues arising from code of conduct case COC045. Far from ‘twisting words to suit a narrative’, I took account of Councillor Sinclair’s insistence that his email was sent ‘intending to raise (Y’s) part in COC0045 and that the email was about the War Memorial’ (paragraphs 42-45 of note of interview with Councillor Sinclair Appendix 13).
- 182.Councillor Sinclair commented that his email to the police on 19 September 2024 should not have been considered, since it was not part of the complaint. In relation to this comment, I note that Councillor Sinclair provided a copy of his emails with the police as part of his response to the complaint, and he referred to the incident having been reported to the police, in his email on 19 September 2024 to 17 recipients. The email to the police on 19 September 2024 thus formed part of the remit provided to me for formal investigation by the Monitoring Officer.
- 183.Councillor Sinclair commented that it is supposition, in paragraph 175, that the police may have responded differently had they been appraised of the part Councillor Sinclair’s provocation played in the incident on 17 September 2024. This was supposition and was based on my assessment of the issues. I note Councillor Sinclair’s comment, but it does not affect my findings.
- 184.Councillor Sinclair comments that it is flawed logic, to link use of his private email account to acting as a councillor, yet ‘accuse’ him for use of his Ledbury Town Council address. I believe this conflates the two points. As I have indicated in the report, the use of a personal email account creates no automatic shield from scrutiny under the Code of Conduct and the use of a council email address does prima facie suggest that a member is acting in their capacity as a councillor.

Conclusion

185. I conclude that Councillor Sinclair **DID** breach Ledbury Town Council's Code of Conduct as follows:

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.

5.1 I do not bring my role or local authority into disrepute.

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 under the Code of Conduct.

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

186. It is less than 12 months since Councillor Sinclair was found to be in breach of the Code of Conduct of Ledbury Town Council in case reference COC045, which is in the public domain. He was annoyed to find himself the subject of this investigation and displayed no regret at all for his conduct. He told me he will not apologise if he were asked to do so.

187. In the circumstances, I will present my report to the Monitoring Officer for her consideration and decision, in accordance with the range of decisions available to her following a formal investigation.

Deborah Nickson
Senior Governance Lawyer
10 December 2024