



Commissioner's Report

2021-2022

Foreword from the Commissioner

My role as Commissioner is to provide a framework of accountability for local councillors, so that alleged breaches of the Local Government Code of Conduct can be dealt with in an appropriate manner.

It is essential that councillors make decisions that are in the public interest, and not in the interests of themselves, their friends, or their family. They should demonstrate the key principles first noted by Lord Nolan in 1995, namely; leadership, selflessness, integrity, objectivity, accountability, openness, honesty, duty (public service) and respect in their own behaviour.

Principles and standards are particularly important where public money is being spent. Members of the public rightly expect decision makers in public life to use public money wisely and to be truthful about what they are doing.

Following a set of standards also helps to ensure that public debate does not fall below an acceptable level. Councillors have an enhanced right to freedom of expression under Article 10 of the European Convention on Human Rights. However, the right to freedom of expression should not be used as an excuse for improper conduct.

The Guidance to the Code of Conduct issued by my Office also states that councillors are expected to give other councillors, council officers, and members of the public the same respect, courtesy and consideration that they show to people when they are not acting in the role of councillor.

I would like to thank those councillors who have been the subject of a complaint during the year for their co-operation throughout the investigation and adjudication process.

I would also like to acknowledge the hard work and dedication of the staff of the Local Government Ethical Standards Team, and those who support myself and the Assistant Commissioners during the Adjudication Hearings.



A handwritten signature in black ink that reads "Margaret Kelly".

Margaret Kelly
Commissioner

Introduction

The Local Government Commissioner for Standards has the authority to investigate and adjudicate on complaints that councillors have, or may have, failed to comply with the Northern Ireland Local Government Code of Conduct for Councillors.

The Commissioner, Ms Margaret Kelly, has delegated the authority to investigate alleged breaches of the Code to the Deputy Commissioner and the Local Government Ethical Standards Team. This is to ensure there is an ethical legal barrier between the investigation and the adjudication functions.

The Team therefore receives, assesses and investigates complaints, while the Commissioner decides whether or not to accept a case for adjudication and then adjudicates as appropriate.

This report covers both functions.

SECTION ONE

Local Government Ethical Standards Team (LGES)

Investigation Caseload

In 2021-22 the Investigations team received 42 complaints that councillors had breached the Code. This compares to 48 complaints received in 2020-21.

Complaint types

More than one person may make the same or similar complaint and a complainant may allege that more than one area of the code has been breached.

A total of 29 complaints were about councillors' behaviour towards other people.

These related to Section 4.13 of the Code, which states that councillors must:

- (a) Show respect and consideration for others;
- (b) Not use bullying behaviour or harass any person; and
- (c) Not do anything which compromises, or which is likely to compromise the impartiality of those who work for, or on behalf of, the council.

The second largest area (22 complaints) related to the section on obligations as a councillor. This section requires councillors to act lawfully, in accordance with the Code, and not to act in a manner which could bring their position as a councillor, or their council, into disrepute.

Other issues of complaint related to use of position (6 complaints), issues around disclosure and declaration of interests (4 complaints), with the remainder being about planning matters (5), and decision making (3).



Cases determined in 2021-22

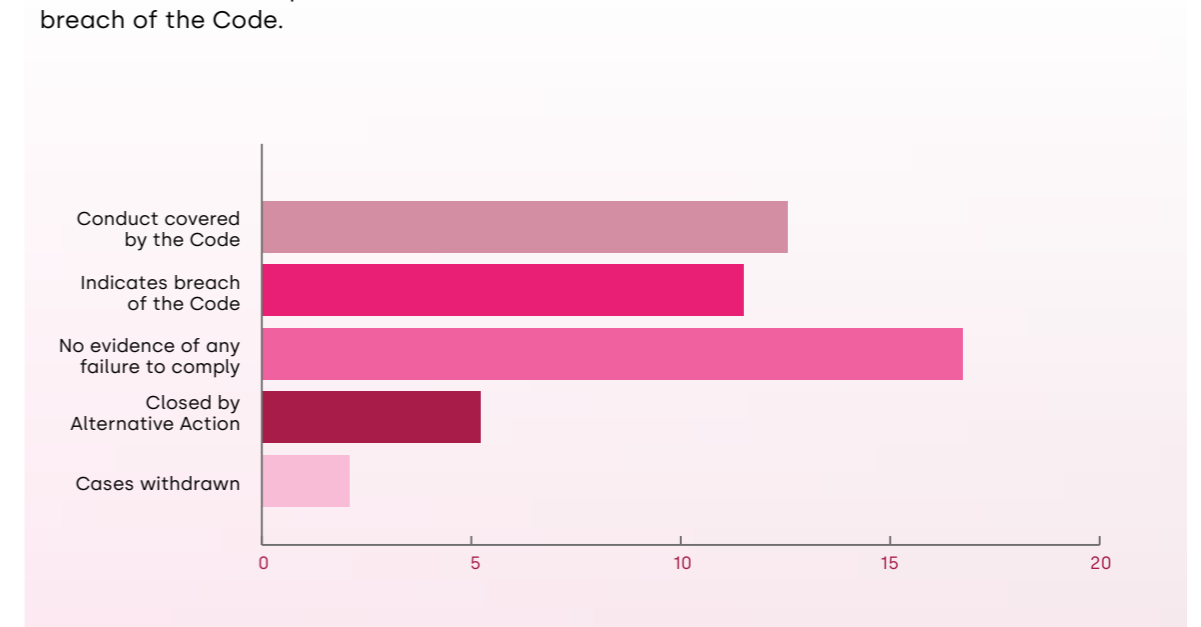
The team closed 46 cases during 2021-22.

Of the 46 cases;

- 12 were closed at the Initial Assessment Stage, which looks at whether the complaint relates to conduct covered by the Code.
- 11 were closed at the Assessment Stage, which looks at whether there is evidence of conduct which, if proven, indicates a breach of the Code.

- 16 were closed at the Investigation Stage, where it was decided that there was no evidence of any failure to comply with the Code.
- 5 cases were closed by Alternative Action.
- 2 cases were withdrawn

In addition 7 cases were referred for Adjudication.



Performance

Within 4 weeks of a complaint being received the team aim to tell the complainant and the relevant councillor whether it will be investigated.

In 2021-22 this KPI was met in 69% of complaints, against a target of 85%.

The team also aim in 60% of cases to complete the investigations within 40 weeks of the complaint being received. In 2021-22, 20% of investigations were completed within this timeframe.

Caseload

	2021-22	2020-21	2019-20	2018-19	2017-18
Written complaints received in year	42	48	41	62	44

Closed Cases

	2021-22	2020-21	2019-20	2018-19	2017-18
Closed at Initial Assessment stage	12	4	9	6	15
Closed at Assessment stage	11	10	13	7	9
Closed at Investigation stage	16	9	10	8	4
Closed by Alternative Action at investigation	5	0	10	1	1

Written complaints received – Basis of Complaint

	2021-22	2020-21	2019-20	2018-19	2017-18
Obligations as a Councillor (requirement to act lawfully and not bring council/position of councillor into disrepute)	22	17	10	21	24
Behaviour towards other people (requirement to show respect and consideration for others)	29	26	22	30	25
Use of Position	6	2	2	4	1
Disclosure of Information	0	6	4	5	1
Decision-making	3	16	5	7	1
Use of council resources	0	3	1	1	0
Registration of Interests	0	0	1	0	4
Disclosure & Declaration of Interests	4	3	6	10	9
Lobbying and access to councillors	0	0	0	1	1
Planning matters	5	11	10	3	2
Total	69	84	61	82	68

Written complaints received by Council Area

	2021-22	2020-21	2019-20	2018-19	2017-18
Antrim and Newtownabbey	6	4	14	9	3
Mid and East Antrim	17	6	3	3	1
Armagh, Banbridge & Craigavon	1	2	2	5	4
Belfast City	0	3	3	22	20
Causeway Coast and Glens	2	17	7	4	1
Derry City and Strabane	0	2	2	4	0
Fermanagh and Omagh	6	11	2	2	4
Mid Ulster	1	2	1	0	2
Newry, Mourne and Down	5	1	3	3	2
Ards and North Down	0	0	1	5	3
Lisburn and Castlereagh	4	0	3	5	4
Total	42	48	41	62	44

Case Summaries

Councillor's failure to respond to complainant not within scope of the Code

Complaint closed at Assessment stage

A member of the public complained about the conduct of a councillor after he asked her for assistance on a private matter. He said that despite sharing some details with the councillor, he didn't receive any further response from her.

As a result he said he felt 'ghosted' by the Councillor, and believed that her behaviour had breached the respect, equality, trust, and objectivity principles of the Code of Conduct.

The LGES Directorate assessed the complaint as to whether an investigation would be proportionate or in the public interest. It looked at a number of emails sent in by the man as evidence of his attempts to get assistance from the councillor.

The Acting Deputy Commissioner concluded that the councillor's failure to respond to an email or a letter is not conduct which falls within the scope of the Code of Conduct.

She was therefore of the view that the complaint did not satisfy the assessment criteria, and that it should not be investigated by the Office.



Deputy Mayor's use of Council resources not a breach of the Code

Complaint closed following investigation

A Councillor complained that a Deputy Lord Mayor used council resources and her personal allowance improperly in a way that benefited herself, her family and her acquaintances.

In particular the complainant said that resources were used for a 'party political' event, that there was inappropriate use of chauffeur services, and that donations and payments were made to charities and local businesses that the Deputy Lord Mayor had personal connections with.

The LGES Directorate looked at information from several sources, including council protocol and the Commissioner's Guidance.

The Deputy Lord Mayor was also interviewed, along with the council's Chief Executive.

In relation to the event, the evidence showed that it was a recognition event for former councillors and not a 'party political event'. The investigation also found that the use of council chauffeur services were also appropriate and within the guidance.

It also found that all of the payments from the Deputy Lord Mayor's allowance were made and approved by Council staff in accordance with Council policy.

The purpose of an investigation is to determine which of the following findings is appropriate:

- a) that there is no evidence of any failure to comply with the Code;
- b) that no action needs to be taken in respect of the matters that have been investigated; or
- c) that the Commissioner, should make an adjudication on the matters that have been investigated.

On the basis of the investigation and the evidence obtained, the Acting Deputy Commissioner was satisfied that there was a lack of evidence to support a failure to comply with the Code, and the complaint was closed without any further action.

SECTION TWO

Local Government Commissioner for Standards

Following an investigation, the Deputy Commissioner may refer a case for adjudication if there is sufficient evidence of a breach. The Commissioner's role is then to decide whether to hold an Adjudication Hearing.

Adjudication Caseload 2021-22

	Totals
Cases ongoing at start of year	7
Cases referred in year	2
Cases accepted in year	1
Cases ongoing at year end	3
Pre-Hearing Reviews completed	23
Adjudication decisions	5

Adjudication decisions 2021-22

Decision	Total
No breach	0
Breach – No Further Action	0
Breach – Alternative action	1
Breach – Censure	1
Breach – Suspension or partial suspension	1
Breach – Disqualification	2
Total decisions	5

Former councillor disqualified for 5 years following sexual assault

Former councillor Brian Duffin (Antrim and Newtownabbey Council) was disqualified for a period of 5 years at an Adjudication Hearing held on 9 June 2021.

Complaint

Mr Duffin was found to have breached Paragraph 4.2 of the Local Government Code of Conduct (the Code) following his conviction at Antrim Magistrate's Court on 19 June 2018.

Paragraph 4.2 states that councillors must not bring their position as a councillor, or their council, into disrepute.

Investigation

In June 2018, former councillor Duffin was convicted at Antrim Magistrates Court of sexually assaulting a teenage girl in June 2016. In August 2018 he was sentenced to four months imprisonment, was placed on the Sex Offenders Register for a period of 7 years, and made subject to a five-year Sexual Offences Prevention Order (SOPO).

Mr Duffin lost his Appeal against conviction in November 2018. On 14 May 2019 his sentence was reduced, on Appeal, to four months imprisonment, suspended for three years.

The SOPO was also removed. He was placed on the Sex Offenders Register for 7 years.

An investigation was held into Mr Duffin's actions after a complaint was made to the Local Government Ethical Standards Directorate.

He denied that he had failed to comply with the Code and claimed his conviction was wrong.

At the Hearing, a number of mitigating factors were raised in the former councillor's favour, including his previous good service, compliance with the Code and his co-operation with the investigation.

However, the serious nature of the conviction and the aggravating factors substantially outweighed the mitigating factors.

Decision

Given the seriousness of the former councillor's conduct, a disqualification period of 5 years was thought to be a proportionate and appropriate sanction.

Ards and North Down Borough councillor suspended for 6 weeks

Councillor Colin Kennedy (Ards and North Down Borough Council) was suspended for a period of 6 weeks at an Adjudication Hearing held on 11 June 2021.

Complaint

The suspension arose from an incident which occurred at the Signal Centre in Bangor, Co Down.

During a meeting at which Councillor Kennedy was present, he remonstrated and raised his voice towards another councillor. Councillor Kennedy followed the other councillor after she left the venue, with the disagreement continuing into the adjoining car park area.

Councillor Kennedy was described as being angry and intimidating towards his colleague. The incident was witnessed by a member of the public who had also attended the meeting. The witness noted that the other councillor, who was the recipient of the conduct, was "clearly distressed", 'evidently upset and shaking'.

Following the incident a complaint was made to the Local Government Ethical Standards Directorate which commenced an investigation

Investigation

During the investigation the other Councillor involved in the incident had described Councillor Kennedy as very aggressive and intimidating during the exchange.

Councillor Kennedy denied that he had failed to comply with the Code. He acknowledged his Councillor colleague's interpretation of their exchange insofar as she was offended and upset, however, at no time did he intend to come across in a bullying or intimidating fashion.

Paragraph 4.2 of the Code states that councillors must not conduct themselves in a way which could reasonably be regarded as bringing their position as a Councillor, or their Council, into disrepute. Paragraph 4.13 states that councillors 'must show respect and consideration for others' and 'must not use bullying behaviour or harass any person'.

At the Adjudication Hearing it was found there was sufficient evidence to show that the other councillor felt intimidated and offended by the behaviour of Councillor Kennedy.



Councillor Kennedy's conduct was found to be likely to diminish the trust and confidence the public places in his position as councillor. There were a number of mitigating factors in the former councillor's favour, including that he did not bring the council into disrepute, that there had been some cooperation with the adjudication process, and that there had been no further incidents since the one under adjudication.

It was also noted that Councillor Kennedy had a previous good record as a councillor, he had been willing to apologise, and that there was no ongoing bad feeling between him and the other councillor.

Decision

However, given the seriousness of the councillor's conduct, suspension for a period of 6 weeks was thought to be a proportionate and appropriate sanction.

It was also noted that Councillor Kennedy had a previous good record as a councillor, he had been willing to apologise, and that there was no ongoing bad feeling between him and the other councillor.

Former councillor disqualified following sexual assault

At a Hearing held in June 2021 former councillor Ian Stevenson (Causeway Coast and Glens Borough Council) was disqualified from being a councillor until 30 April 2025.



Complaint

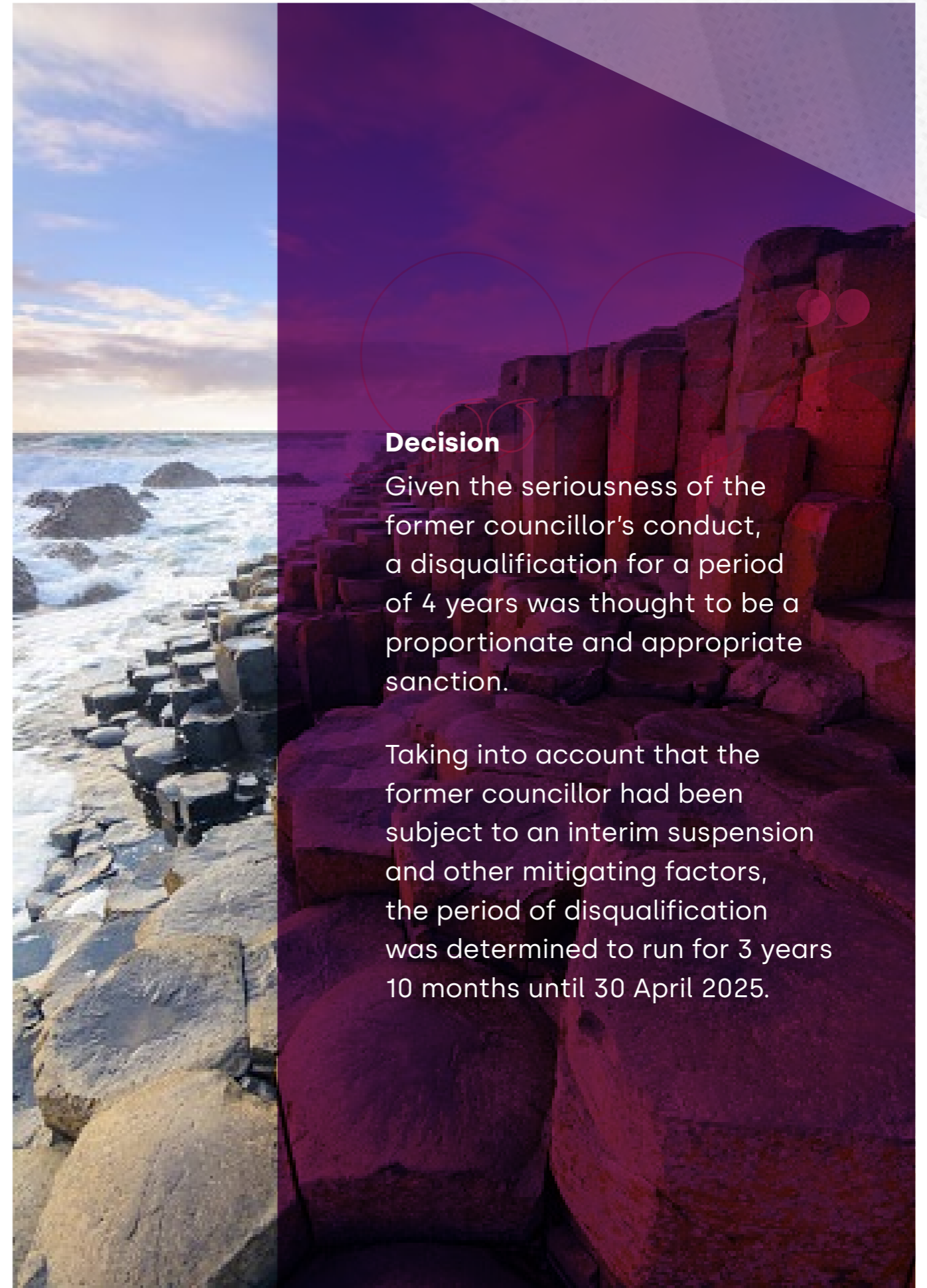
Mr Stevenson was found to have breached Paragraph 4.2 of the Local Government Code of Conduct (the Code) following his conviction in December 2018 for sexual assault. He was sentenced to 220 hours of community service and placed on the Sex Offenders Register for a period of 5 years.

Investigation

An investigation was held into Mr Stevenson's actions after a complaint was made to the Local Government Ethical Standards Directorate.

He denied that he had failed to comply with the Code and continued to deny the basis of his conviction.

At the Hearing it was concluded that the former councillor had brought the role of councillor and the council into disrepute and was likely to have diminished public confidence in both.



Decision

Given the seriousness of the former councillor's conduct, a disqualification for a period of 4 years was thought to be a proportionate and appropriate sanction.

Taking into account that the former councillor had been subject to an interim suspension and other mitigating factors, the period of disqualification was determined to run for 3 years 10 months until 30 April 2025.

Former Councillor censured following breaches of the Local Government Code of Conduct

Former Councillor Declan Boyle (Belfast City Council) was censured by the Local Government Commissioner for Standards after being found to have breached a number of parts of the Code of Conduct relating to declaration of interests.

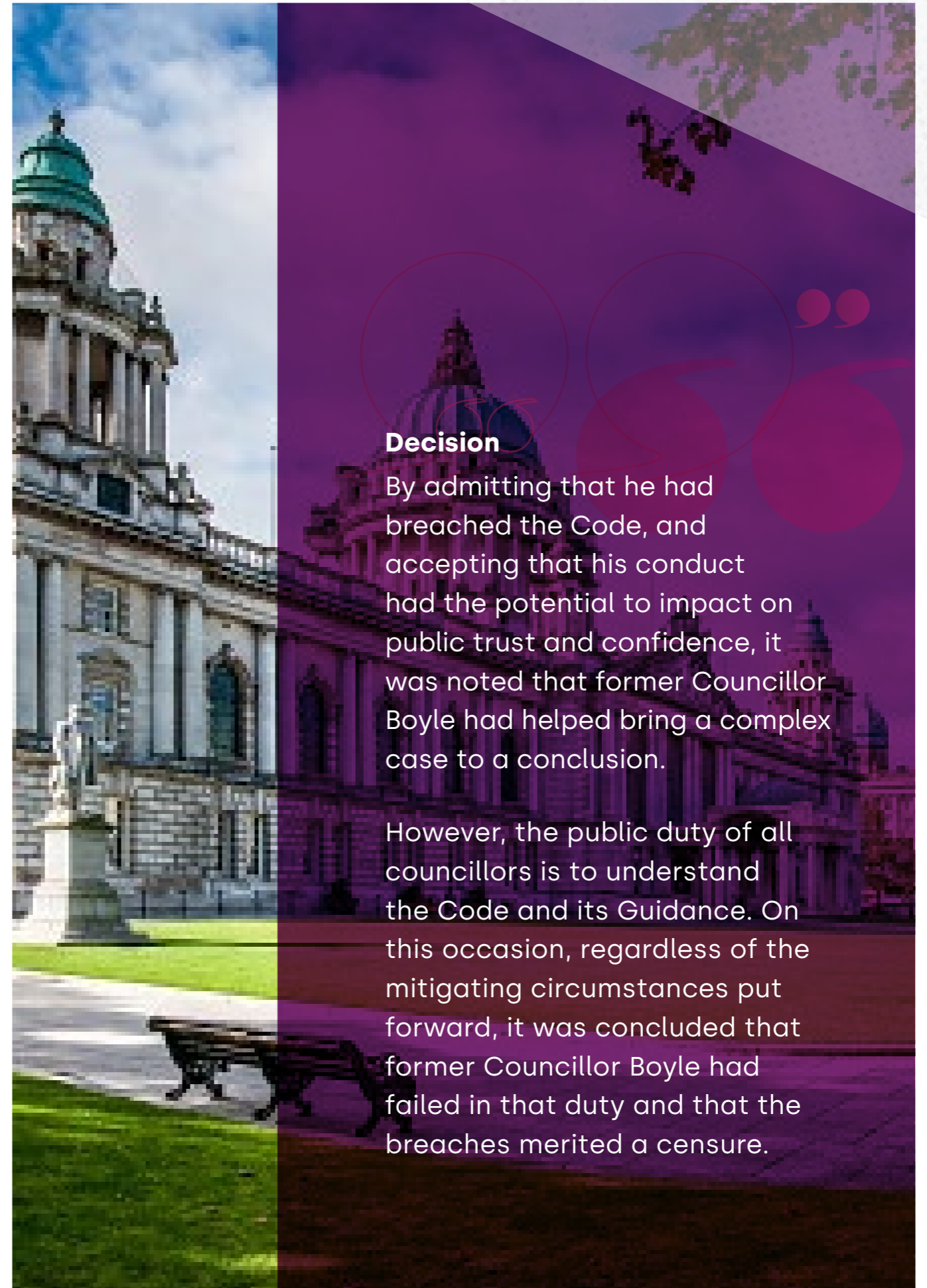
Complaint

Former Councillor Boyle was present in Council meetings when improvements in areas of Belfast where he had properties were discussed. He did not withdraw from those meetings nor declare his personal interests.

Investigation

The Local Government Ethical Standards Directorate investigated after receiving complaints that former Councillor Boyle had failed to comply with the Code.

The former councillor acknowledged that he had breached the sections of the Code relating to conflict of interest, however he said that the incidents had occurred early in his role, and that he had taken advice which said that his actions would not constitute a failure to follow the Code's provisions.



Decision

By admitting that he had breached the Code, and accepting that his conduct had the potential to impact on public trust and confidence, it was noted that former Councillor Boyle had helped bring a complex case to a conclusion.

However, the public duty of all councillors is to understand the Code and its Guidance. On this occasion, regardless of the mitigating circumstances put forward, it was concluded that former Councillor Boyle had failed in that duty and that the breaches merited a censure.

Commissioner and Assistant Commissioners

Margaret Kelly - Commissioner

Margaret Kelly took up the post of Local Government Commissioner for Standards in August 2020. Margaret has worked extensively in the voluntary and community sector for over 30 years and gained a range of experience in leading and managing services, developing policy and working in partnership with the public sector.



Ian Gordon OBE QPM LL.B - Assistant Commissioner

Ian Gordon is a retired Deputy Chief Constable of Tayside Police. Seconded to HM Inspectorate of Constabulary for 3 years, he was the lead police officer on the annual statutory inspection of five UK police forces. Mr Gordon was a Convener for the Standards Commission for Scotland between 2010 and 2017 and led a focused improvement, to awareness of the Codes of Conduct, for elected members and Boards of Public Bodies.



Katrin Shaw - Assistant Commissioner

Katrin was admitted as a Solicitor in 1996 and worked as a local government lawyer before she joined the Welsh Ombudsman's office as an Investigator in 2001. Since then, Katrin has held managerial roles in the office and is now the Public Services Ombudsman for Wales's Chief Legal Adviser & Director of Investigations overseeing casework, including investigations under the ethical standards framework for local government members in Wales.



Appendix

Funding and Expenditure

The Local Government Ethical Standards (LGES) directorate is funded from a separately identified portion of the overall annual budget for the Northern Ireland Public Services Ombudsman (NIPSO). The LGES budget is proactively managed by NIPSO over the course of each financial year to ensure that any emerging funding pressures are identified and addressed.

Similarly, where reduced requirements arise, under established arrangements with the Department for Communities (DfC), any such amounts are released back to DfC by NIPSO by means of a mutually agreed in-year transfer.

This is accordance with normal in-year financial monitoring procedures, after which DfC pay the released funding back to Local Councils. Where applicable a final end of year adjustment must also be returned directly to DfC. In all cases the amounts returned are made available for redeployment within Local Government, thus ensuring that any unspent amounts are able to be utilised fully and effectively.

The following summarises the audited 2021-22 expenditure on the LGES function, compared to the preceding year, as reported in NIPSO's 2021-22 Annual Report and Accounts:

All £k	2021-22	2020-21
Staff costs	386	374
Other administration costs	148	57
Total expenditure	534	431



Northern Ireland

Local Government

Commissioner for **Standards**

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