

**Report of an Investigation into a Complaint
by Susan Halliwell, Chief Executive, against
[REDACTED] [REDACTED] of Bracknell Forest
Council**

Private & Confidential

Final Version 12 July 2024

**Richard Lingard LLB
Solicitor**

ICO Registration No: Z27409852

T: [REDACTED]
E: [REDACTED]

Richard Lingard – Curriculum Vitae

Educated at Magdalen College School Oxford and Southampton University, I qualified as a Solicitor in 1980, trained in private practice and spent four years in the commercial sector before going into Local Government.

At the time of my retirement in September 2011, when I became a non-practising Solicitor, I was the Head of Legal & Democratic Services and Monitoring Officer at Guildford Borough Council, for whom I worked for some 30 years.

Since 2011, I have conducted and reported on over 60 investigations covering allegations of misconduct against City, County, Borough, Parish and Town Councillors and Officers. I have also carried out a number of procedural and governance reviews and provide training on ethical standards and the responsible use of social media by councillors. My work has been carried out for local authorities in Berkshire, Buckinghamshire, Hampshire, Hertfordshire, Kent and Surrey.

I have also recently completed an eight-year term as an Independent Member of the Surrey Police Misconduct Panel.

EXECUTIVE SUMMARY

This is the final version of my report of an investigation that I have carried out into a complaint brought by Susan Halliwell, Chief Executive, against ██████████ of Bracknell Forest Council ('BFC' / 'the Council') in respect of her alleged breach of the Council's Code of Conduct for Members by virtue of ██████████
██████████

I have concluded that ██████████ has breached the BFC Code of Conduct and Member / Officer Protocol

1. INTRODUCTION

- 1.1 On 29 April 2024, Mr Sanjay Prashar, Monitoring Officer of the Council, instructed me to conduct an independent investigation into a complaint against ██████████
- 1.2 Mr. Prashar provided me with a copy of the complaint, the full text of which is reproduced at **Appendix 1** to this report, and contact details for the people concerned.
- 1.3 In a nutshell, the complaint originated with a junior colleague of ██████████ ██████████ recently retired ██████████, who on the day in question, Tuesday 12 March 2024, was sitting at his desk in the BFC offices at Time Square alongside a more junior member of staff (whom I refer to hereafter as 'Officer A' when the latter said to him:

"Look out, ██████████ coming". I am told that ██████████ is the name by which ██████████ ██████████ a long-serving councillor, has for many years been known throughout the authority.
- 1.4 ██████████ then approached the two officers and said "*I can lip read, you know. Watch it, or I'll kick your fucking head in*" or, alternatively: "*I can lip read, you know. Watch it or I'll kick you in the fucking face*".
- 1.5 Following receipt of my instructions, I reviewed the documentation and contacted Ms Halliwell in order to clarify the reasoning behind her being named as the complainant rather than, as might have been expected, either of the two officers at whom the abusive language was apparently directed.
- 1.6 I sent emails to the two officers concerned and to ██████████ to introduce myself as the independent investigator. I spoke to all three over the ensuing three weeks as detailed below.
- 1.7 In accordance with my usual practice and with their consent, I made recordings of my discussions with both officers and used them as the basis of notes which I sent to each of them for comment. Upon receipt of their confirmation that they were happy with my notes, I deleted the recordings.

2. MY INTERVIEW WITH OFFICER A

- 2.1 Officer A is an Administrative Assistant in the Planning Department at Bracknell Forest Council (BFC). She has been at BFC for about six years.
- 2.2 I asked her to explain the circumstances in which the exchange of words complained of took place.
- 2.3 She told me that in the afternoon of Tuesday 12 March 2024 she and ██████ were sitting at their respective adjoining desks in the offices at Time Square, both facing the same way. MB was looking down at his mobile phone and did not see ██████ approaching. Officer A saw her coming across the office and said, by way of warning to ██████ ██████
- 2.4 She said she thinks she may have said this twice. ██████ then walked around the bank of desks and approached the two officers from behind. As she approached, she said something along the lines of “*Watch out – I can lip read, you know*” and said something about the circumstances in which she had learned to do so.
- 2.5 As she stood in front of the two officers, she said (according to Officer A’s recollection) “*I’ll kick you in the fucking face*”. Officer A felt that this remark was probably directed at ██████ rather than her.
- 2.6 She told me that she had ‘warned’ ██████ of ██████ approach because she did not want ██████ to catch him unawares. After this exchange, ██████ stayed and spoke to ██████ for a while. Officer A had never had a previous conversation with ██████ although she had seen her around the office.
- 2.7 Officer A said that she would prefer not to be named in my report because she does not regard herself as the complainant. I agreed that I would respect her anonymity.

3. ██████

- 3.1 I interviewed ██████ via Zoom on 24 May 2024. ██████ at the Council shortly after the date on which the incident the subject of this investigation took place.
- 3.2 On the afternoon of Tuesday 12 March, he was sitting at his desk, next to Officer A when he heard her say “*Look out, ██████ coming*”.
- 3.3 This was a reference to ██████, known throughout the authority as ██████. ██████ believes that ██████ had seen Officer A say something and as she approached, ██████ said something along the lines of “*You know I can lip read. You’d better watch it, or I’ll kick your fucking head in*”. She then began speaking to ██████ about a planning matter, the details of which ██████ cannot now recall.

- 3.4 At the time, [REDACTED] was not sure whether [REDACTED] had aimed the remark at him or at Officer A, because she did not appear to be looking specifically at either of them. It was apparent that Officer A was more concerned than [REDACTED] about [REDACTED] conduct because she subsequently mentioned the incident to Executive Director (Place) Andrew Hunter.
- 3.5 [REDACTED] said that he has known [REDACTED] for many years and whilst she has always been 'a bit of a character', her behaviour had in recent times become more erratic. She was, he said, something of a conspiracy theorist and would often express concern about, for example, a planning application in vague terms without necessarily articulating any argument that might justify refusal of an application.
- 3.6 When Mr Hunter subsequently told [REDACTED] that Officer A had raised her concern, [REDACTED] reflected and agreed that [REDACTED] had been 'out of order'. He considered that even if the remark had been directed at him rather than Officer A, it was still a totally unacceptable way to behave.
- 3.7 [REDACTED] was doubtful whether [REDACTED] had come into the office to talk to him about a specific planning matter. He said that she was in the habit of calling into the office to see who was there and raising whatever issue was on her mind at the time. He thinks she may have been looking for a case officer. Case officers generally only came into the office on Wednesdays for team meetings and this was, [REDACTED] thinks, why she did not find one and 'rounded' on him.
- 3.8 Although [REDACTED] cannot now remember what particular issue [REDACTED] raised with him after her outburst, she may have made some comments about her dissatisfaction with the recent reduction in the number of members on the Planning Committee, from one member per ward (18) to just 12.
- 3.9 Although [REDACTED] and Officer A did not spend any significant amount of time talking about the episode after it happened, Officer A mentioned it to Mr. Hunter in a subsequent meeting which took place about two weeks after the incident.
- 3.10 [REDACTED] commented that [REDACTED] had been for many years in the habit of walking uninvited into meetings and interrupting proceedings, and he considered this abrupt approach to be perhaps not unusual, but unacceptable nonetheless.

4.0 MS SUSAN HALLIWELL

- 4.1 I had a 'Teams' meeting with Susan Halliwell, BFC Chief Executive (SH) on 16 May. She explained that the appearance of Stuart McKellar's name on the complaint form (See Appendix 1) came about because on the day in question, she had been very busy and he had volunteered to complete the form on her behalf.
- 4.2 I told SH that Officer A who had been with [REDACTED] when the conduct complained of occurred had told me that she had not wanted to lodge a complaint in her own name. I had said that so far as was possible, I would avoid naming her although it was highly likely that [REDACTED] would know her identity.

- 4.3 SH said that despite the fact that Officer A might for entirely understandable reasons not be very keen on putting her name to making a complaint, she (SH) thought that [REDACTED] language as reported to her was *'quite appalling and thoroughly disrespectful'* towards the officer concerned. She does not want anyone coming to work believing that they are going to be spoken to by a councillor in that way. It was her decision to submit the complaint in her name.
- 4.4 Andrew Hunter, Executive Director (Place), [REDACTED] line manager, had reported the incident to SH. She was told that having used foul language at [REDACTED] and Officer A, [REDACTED] had carried on as if nothing had happened, talking about a planning application. [REDACTED] was asked to write down what was said.
- 4.5 SH said that [REDACTED] has exhibited this type of behaviour previously [REDACTED]
[REDACTED]
[REDACTED] She said that no-one has so far made any attempt to address [REDACTED]'s unacceptable conduct. People thus either move on or try to avoid speaking to her.
- 4.6 [REDACTED]
[REDACTED]
[REDACTED]
- 4.7 [REDACTED] then began to approach a number of junior members of staff, trying to get them 'onside'. SH has asked [REDACTED] not to go into the office or the depot except for formal meetings or to contact anyone other than senior officers. [REDACTED] has ignored the latter instruction.
- 4.8 [REDACTED]
[REDACTED] She added that [REDACTED] has shown no contrition in relation to the incident and is behaving as though nothing has happened. SH thinks that an apology and mediation would be the best way forward but doubts that this would be achievable.
- 5.0 [REDACTED]
- 5.1 [REDACTED] telephoned me shortly after receiving my introductory email of 1 May and I took the opportunity to explain the investigation process and confirmed that that I would be in touch with her again once I had spoken to the complainants.
- 5.2 However, my plans to meet and interview her were thwarted by a number of factors.
- 5.3 I had originally intended (and offered) to meet [REDACTED] at her home address but unfortunately due to an injury which has prevented me from driving any distance, we had to look for an alternative.

5.4 We therefore arranged to meet via Zoom on 5 June, the intention being that I would go through the allegation against her and invite her to comment on five specific questions, namely:

- (1) Whether she recalled the incident reported as having taken place on 12 March;
- (2) If she did not, whether she believed that the two officers fabricated the allegation;
- (3) If she did recall the incident, whether she admitted using the words alleged;
- (4) If she did not, whether she believed that the two officers fabricated the allegation that she had used foul language;
- (5) Whether she had any further comments on what may or may not have taken place at that time, including the purpose of her visit to the Planning Office on that day.

5.5 I explained that I might then have further questions for her, depending on her answers.

5.6 My experience over the past thirteen years has been that Zoom / Teams sessions are just as effective as face-to-face meetings and they have the advantage of making more economical use of time. I therefore hoped that this would hold good in this instance. Unfortunately, it did not. I found [REDACTED] employment of diversionary tactics and her uncooperative and filibustering attitude towards me and my attempts to be conciliatory in a genuine effort to move this investigation forward completely unproductive.

5.7 The Zoom session I had with her was so disjointed and argumentative on her part that it was useless and rather than following my normal practice of transcribing our discussions, I deleted the recording I had made. It became so unstructured that, frankly, it was of no value. I accordingly discussed the matter with Mr. Prashar and proposed a different approach which I hoped would find favour with [REDACTED]

5.8 I accordingly sent [REDACTED] a further email, as follows:

*'The complaint brought in the name of the Chief Executive (I'll come to that point shortly) is to the effect that on the afternoon of Tuesday 16th*** March* 2024 you went into the Planning Department at BFC and, approaching [REDACTED] [REDACTED] and one of his colleagues, said something along the lines of [REDACTED] [REDACTED] Whilst the exact wording may not be as set out above, both officers were absolutely adamant that you used the F-word.*

That is the extent of the conduct alleged which, if proven could constitute a breach of the BFC Code of Conduct. As mentioned in my email to you of 25

May, I have brief statements from each of the officers concerned, one of whom [REDACTED] has, as you are well aware, retired and the other, the more junior officer, who did not wish to raise a formal complaint.

The decision to raise the complaint was made in the name of the Chief Executive Susan Halliwell who told me that she regarded your language as reported to her as being 'quite appalling and thoroughly disrespectful towards the officers concerned'. She added that she does not want anyone coming to work at BFC believing that they are going to be spoken to by a councillor in that way.

I cannot look behind that decision but am acting on instructions from Sanjay Prashar, BFC Monitoring Officer.

I would find it very helpful if you could provide concise written answers to each of the following questions:

- (1) Whether you recall the incident;
- (2) If you do not, whether you believe that the two officers fabricated the allegation;
- (3) If you do recall the incident, whether you admit using the words alleged;
- (4) If you do not, whether you believe that the two officers fabricated the allegation that you used foul language;
- (5) Whether you have any further comments on what may or may not have taken place at that time, including the purpose of your visit to the Planning Office.

I recall that when we spoke via Zoom, you told me that you and [REDACTED] had a long-standing working relationship and that such 'choice' language' as you may have used on 16th*** March was nothing more than banter. Although I do need clear and concise answers to the above questions as a preliminary, you are at liberty to amplify your response insofar as it is relevant and necessary to do so by way of explanation of what took place.

[*This should have read 12th March – see Paragraph 5.14 below]**

5.9 This communication was in effect the third time that I had spelt out to [REDACTED] [REDACTED] the specifics of the alleged incident and the five straightforward questions that I was seeking in order to take the investigation forward.

5.10 She replied to my email two days later thus:

‘COMPLAINT ‘BY’ SUSAN HALLIWELL

Before I can comment with my concise written answers to those 5 very specific questions, I need some detail from you. Otherwise, all I have to go on is the ‘jumbled’ information on the complaint form which is evidently a third hand interpretation of events.

(1) As █████ did not make the complaint, has █████ indicated any personal offence was taken?

(2) On the complaint form it says that █████ is not clear as to whom any comments may have been directed. Has this been clarified?

(3) Has █████ been asked who instigated the conversation and if so, what he said/did?

(4) Has █████ been asked if he has ever used bad language

- a. In the office
- b. In his conversations with me

(5) Has █████ been asked if he recalls any apology given as part of our conversation?

(6) Has anyone else (other than [Officer A]) in close proximity to █████ and I, been asked,

- a. If I spoke with them
- b. If so, what did I say
- c. How did they respond?

(7) Have you established whether or not swearing can be heard from time to time in council offices?

If this complaint, is in effect, about the use of language in council offices have you found any instructions Susan Halliwell has put out since her appointment and if so please provide a copy?’

5.11 It was quite clear to me that this response was yet another attempt by █████ █████ to avoid answering the five simple questions I had asked her. Following further discussions with Mr Prashar I accordingly wrote to her once again pointing out that it was quite improper for the subject of a complaint to raise questions of the investigator in the way she was seeking to do.

5.12 I stated that if she did not provide a response in writing to my questions relating to the incident on 12th March by close of business on Friday 14 June, I would conclude my investigation and draft a report with findings based on the information I had been able to gather to date. For ease of reference, I repeated the questions yet again.

5.13 I received ██████████ reply on Thursday 13 June. It is reproduced in full below.

- 5.14 It should be noted that in my earlier message to [REDACTED] I had inadvertently referred at one point to the incident having occurred on 16th March – this was a typographical error for which I apologised as soon as she brought it to my attention.
- 5.15 The text is exactly as [REDACTED] submitted it to me.

[REDACTED] RESPONSE OF 13 JUNE IN FULL

WITHOUT PREJUDICE

Dear Mr Lingard

I refer to your email dated 11th June. Your response is very disappointing. There are a number of ‘improper’ dealings in respect of both complaints by others, all I was seeking was clarification on matters pertinent to the complaint. The lack of detail in the complaint form puts me at a distinct disadvantage.

As requested, here is my response to the 5 questions and what detail there is in your email about the matter.

COMPLAINT BY SUSAN HALLIWELL

Allegation: that in Susan Halliwell’s opinion, *I have “failed to treat [REDACTED] and/or others with respect.”*

In your email you state as follows

*“.....to the effect that on the afternoon of **Tuesday 16 March 2024** you went into the Planning Department at BFC and, approaching [REDACTED] and one of his colleagues, said something along the lines of [REDACTED] [REDACTED] Whilst the exact wording may not be as set out above, both officers were absolutely adamant that you used the F-word. The exact words are as you state, not perhaps as are stated in the complaint form but both officers are adamant that I used the F-word. That is the extent of the conduct alleged which, if proven, could constitute a breach of the BFC Code of Conduct and Member / Officer Protocol”.*

In response, the use of the ‘F-word’ itself would not constitute a breach of the BFC Code of Conduct and Member/Officer Protocol. The deciding factor must surely be the context in which such language may have been used. Words only have true meaning when used in a sentence. The purpose of any spoken sentence has to be considered in the context of its use, hence why I asked the questions of you.

As you have not provided me with the necessary details, I will make several assumptions and, on this basis, my concise written answers to each of your 5 questions are ***in bold italics***

- (1) Whether you recall the incident;

RESPONSE – in your email you seem to have your dates confused. The 16th March was a Saturday. On that day I attended site visits and I reject any suggestion of using such language on that day. I do recall my visit to the offices during the previous week. This would have probably included Tuesday 12th March.

- (2) If you do not, whether you believe that the two officers fabricated the allegation;

RESPONSE – I don't have sight of any statements that you may have, or of the questions asked of them. The details on the complaint form confirm that it's not clear as to exactly what may have been spoken and to whom. From your own investigations you confirm that the exact words are in some doubt. You don't seem to have any details of what was said by [REDACTED] when he saw me as I entered the office. It also seems that you don't have details of the context in which he made his remarks or the nature of our long-established working relationship. For the record, it was he that started the 'office banter' that then followed. We engaged in the same 'style of chat' that has been our practice for some years.

However, in RESPONSE TO THE FOLLOWING: “Whilst the exact wording may not be as set out above, both officers were absolutely adamant that you used the ‘F’ word.”

I have already admitted to Sanjay, that I did use the ‘F’ word during our banter style of conversation. I also told Sanjay that I immediately apologised to others present and nearby, for doing so. They responded in a way that told me that no offence had been caused. Whilst I am not seeking to defend the use of such words, the use of such language is not uncommon at Bracknell Forest and the use of the ‘F’ word alone even in the offices, cannot constitute an actionable matter in the context of the Code of Conduct.

- (3) If you do recall the incident, whether you admit using the words alleged;

RESPONSE – there was no incident on the 16th March. During the week that included the 12th of March, I did visit the offices and spoke to [REDACTED]. When I entered the office, I saw him and he made comment about me coming towards him. I responded to his light hearted comment and we would have engaged in a form of verbal banter as we have done many times before. That banter included me using the ‘F-word’ as I have admitted to Sanjay, but the context of its use has to be the key factor to consider relative to any potential breach of the Code.

To illustrate my point. Imagine two friends chatting in a pub and one said to the other “you are an ‘F-ing’ idiot.” A third-party hearing this may be concerned. If that person then reported to the publican, who not knowing of the relationship between the two, might just fear that a punch up is about to start. Yet all it was, was banter between two people over a pint. I suggest this is very like the situation we have here. Susan only heard of words spoken and she was too far distant from the facts. As a consequence, the complaint has been made on her behalf based on a fourth-hand account and without her or others, taking sufficient care to contextualise the situation.

I therefore reject any suggestion that the way I used the ‘F’ word in my conversation with █████ showed lack of respect amounting to a breach of the Code. If this were the case then █████ would have not gone out of his way to invite me to his leaving do whilst we ate cake together after █████ last planning committee meeting on the 21st March. Furthermore, had I caused offence then I am sure that █████ would have made a complaint in his own name. He had no reason to hold back as he was leaving.

(4) If you do not, whether you believe that the two officers fabricated the allegation that you used foul language; **RESPONSE – see above.**

(5) Whether you have any further comments on what may or may not have taken place at that time, including the purpose of your visit to the Planning Office.

RESPONSE – I was in the office as I needed to speak to █████ in his capacity as █████. I spoke with him in my capacity of Ward Member and at that time still a Member of the Planning Committee. Our discussion was about a complex planning matter in my Ward. The meeting was productive and as far as I was aware. I left that meeting as far as I was concerned having caused no distress to █████ or anyone else in the office. Our professional relationship continued with our normal good humour during the following planning site visits and committee meeting.

In summary, whilst I have already admitted that I did use the ‘F’ word, I consider the complaint unjustified. Whilst the form properly identifies a relevant cause for the complaint as per the Code, the supporting detail is woefully inadequate and should never have been accepted in their current form. I would like to think that if the correct procedure had been followed as per the Code then, as they are, that they would never have been referred for investigation. The allegation could have been sorted out had the relevant managers made the effort to approach me. This would have saved me considerable distress, cost and reputational damage; doing so would have saved the council budget, staff time whilst also helping ensure a continued good working relationship.

6 COMMENTS ON ██████████ RESPONSE

- 6.1 Ignoring her references to the mistyped date, I have the following comments on ██████████ response.
- 6.2 It is difficult to understand how much clearer I could have made the nature of the complaint against ██████████. She was provided with a copy of the original complaint as lodged by Stuart McKellar on behalf of the Chief Executive. The facts as alleged against her were set out very clearly in the interviews I had with Officer A and ██████████ and summarised by me in my various communications with her. The statements by the two officers are included in this document and if ██████████ now saw anything therein which I had not previously vouchsafed to her, she was of course at liberty to comment accordingly when responding to the draft version of this report.
- 6.3 The interviews that I conducted with Officer A and ██████████ did not take the form of full-blown question and answer sessions, nor was it necessary for them to do so. I simply asked each officer to tell me what happened on the afternoon in question and they told me in their own words. Their accounts, given to me quite independently and several days apart, tally in all essential detail.
- 6.4 It was not necessary for me to enquire, as ██████████ seems to suggest that I should, whether there was a culture or habit of the use of bad language in and around the office.
- 6.5 ██████████ mentions that she has admitted to Mr. Prashar that she has used the F word during '*their banter style of conversation*'. It is not clear whether this is a reference to the exchange on 12 March or to other conversations she had had with ██████████ over the many years that they had worked together. Whatever the reality of the situation, it is clear to me that ██████████ use of the F-word more or less as an opening gambit when approaching ██████████ and, in particular his colleague who told me that she had never previously had a conversation with ██████████ was totally unacceptable.
- 6.6 I disagree that the use of the F word cannot alone justify action being taken against the person responsible. Context is everything and whilst it is quite true that people in all sorts of different environments will use bad language, this does not make it right, any more than, say, sexist comments can be justified by over-use.
- 6.7 It may well be that having known and worked with her for many years ██████████ was well used to ██████████ demeanour and disposition but it is quite clear that Officer A, who had never spoken to ██████████ was sufficiently concerned by the language used in her presence by a senior member of the council to mention it to a senior manager by whom the matter was escalated to the Chief Executive. It is entirely understandable that a relatively junior member of staff would not wish to 'put her head above the parapet'.

7 THE CODE OF CONDUCT & MATERIAL CONSIDERED

- 7.1 BFC's Code of Conduct for Members may be found in Section 13 of the Council's Constitution and the relevant paragraph of the Code is 3.1:

'I treat others with respect'

A simple and easily understood obligation.

- 7.2 Section 15 of the Constitution contains the Council's member / Officer Protocol, Paragraph 3.1 of which provides that:

'...Members and Officers must work together in a harmonious relationship based upon mutual respect, courtesy, trust, honesty and understanding of each other's roles. This should prevail in all meetings and contacts, whether formal or informal.'

- 7.3 The above provisions are set against the background of the Seven Nolan Principle of Public Life and are to be found in the constitutions of virtually every local authority in the country and it is against them that I have assessed the complaint.

8. WAS [REDACTED] BOUND BY THE CODE AND THE PROTOCOL?

- 8.1 The Code of Conduct and protocol were both in force at the material time and [REDACTED] was accordingly bound by their provisions provided that she was acting as a councillor at the material time.

- 8.2 There is no doubt that [REDACTED] was acting in her capacity as a councillor at the time of the incident described by [REDACTED] and Officer A. She was therefore bound by the Code of Conduct,

9. CONSIDERATIONS

- 9.1 The essential facts of this case are not in dispute. [REDACTED] admits that she used the F-word during the course of her exchange and to that extent it matters not whether the sentence in which she used it was precisely as recollected by [REDACTED] or by his colleague – the essence is there in both accounts - actually in all three if [REDACTED] own version is included.

- 9.2 Whatever bantering relationship [REDACTED] had built up with [REDACTED] over the years (and it seems that they did get on and that he apparently took no immediate exception to her remarks) her conduct on 12 March must on any assessment be totally unacceptable despite [REDACTED] insistence on the importance of context. I hardly think her analogy of two friends in a pub bears comparison with the situation which caused Officer A. to be sufficiently concerned to report it to a senior manager.

10. DRAFT CONCLUSION

- 10.1 I gave given very careful consideration to all that I was told by all interviewees including ██████████ and concluded that she had breached the Code of Conduct and the Member / Officer Protocol as particularised above. I did not arrive at this view in sole reliance on her use of the F-word but taken as a whole, her remarks aimed at ██████████ and / or Officer A, demonstrate a complete lack of respect at even the most basic level. I should have expected a considerably higher standard of conduct from someone who clearly has a very high public profile locally.
- 10.2 If, as ██████████ suggests, this ‘banter’ was nothing out of the ordinary in the BFC offices, that of itself is a matter of concern that should be addressed but even if such a culture is a feature of office life at BFC, that does not excuse the way in which I was satisfied, on the balance of probabilities (the applicable standard of proof in this case) that she behaved on 12 March.

11. RESPONSES TO THE DRAFT REPORT

- 11.1 I completed my draft report on Monday 17 June and sent a copy to Mr. Prashar that day for his confirmation that it met the Council’s requirements in terms of format, content and coverage. I did not ask whether he agreed with my draft findings.
- 11.2 On receipt of that confirmation the following day, I sent copies of the draft to ██████████ and to Ms Halliwell, inviting their comments by 2 July. I confirmed that upon receipt of any comments, I would prepare the final version for submission to the Council.
- 11.3 Ms Halliwell replied on 20 June confirming that she regarded the report as factually accurate. She made no further comment.
- 11.4 ██████████ replied the following day. She said that in short, she did not challenge my conclusion but she submitted a number of observations for my ‘consideration or wider understanding’. Whilst I would ordinarily interleave such responses into the body of my reports, I felt that to do so in this instance would not only interrupt the continuity of the original report but also prejudice the ‘flow’ of ██████████ response and I therefore decided to reproduce her submission in full. It is to be found at **Appendix 2**. The reader is accordingly invited to read Appendix 2 in full.
- 11.5 My comments on what ██████████ has to say are set out in Section 12 below. It is hoped that this arrangement will render the report as a whole readily legible and clear.

12. MY COMMENTS ON ██████████ RESPONSE TO THE DRAFT REPORT

- 12.1 ██████████ is at pains to emphasise that there was never any malicious intent behind her use of ‘robust’ language and whilst I accept that this was the case,

its use was no less inappropriate for all that. I believe that [REDACTED] accepts this point.

- 12.2 The circumstances that frustrated my attempts to arrange an initial meeting with [REDACTED] clearly gave rise to some misunderstanding about the nature of the investigation process but my attempts to start off with some basic questions and to progress from there in a manner appropriate to responses received did not bear fruit.
- 12.3 [REDACTED] goes some way to explaining the context in which her exchange (if it can be called that) with [REDACTED] took place although I still cannot see any justification for the expression used, particularly in front of a junior officer whom [REDACTED] did not know.
- 12.3 There is little to be gained by going over the factors that led to my aborting the Teams meeting.
- 12.4 I was pleased to note that [REDACTED] feels that some modification or 'toning down' of her conduct in and around the office would be appropriate and I hope that this can be achieved either with or without a formal 'training' label being attached to the process and I was also pleased to note the constructive comments set out in the final paragraph of her submission.

13. FINAL CONCLUSION

- 13.1 Although Section 12 above may appear to be a rather brief response to what [REDACTED] had to say, I did read her submission very carefully, particularly bearing in mind the obligation upon me to consider whether I should revise my draft conclusion.
- 13.2 The facts in this case are straightforward and undisputed. Nothing that [REDACTED] said in her response at Appendix 2 causes me to depart from my draft conclusion and I accordingly stand by my view that [REDACTED] did breach the BFC Code of Conduct by virtue of her conduct towards two Planning Officers on 12 March 2024.

14. POSTSCRIPT

- 14.1 In a most unfortunate turn of events, I was putting the final touches to my report when I was admitted to hospital for major abdominal surgery – thankfully over and done with a couple of days ago. My apologies for the consequent but inevitable delay in finalising the report.

Richard Lingard

12 July 2024

THE COMPLAINT

Councillor complaint [OFFICIAL- SENSITIVE]

Case reference: BFC/1129517

Councillor details

Name: ██████████ **Council:** Bracknell Forest Council

Complaint details

How has the councillor's behaviour breached the Code of Conduct?

By failing to treat me and/or others with respect

Please provide us with details of your complaint:

Towards the end of March, it was reported by ██████████ recently retired ██████████ ██████████ that he was witness to inappropriate behaviour in Time Square exhibited by ██████████. He reported, "My recollection is that [Officer A] spotted her heading towards us and said to me something like 'look out ██████████ coming'. ██████████ then came up to us and said "watch it or I'll kick your fucking head in" which may have been directed at me but could have been at [Officer A]. She then said that she knew how to lip read. After that she started talking about planning matters for a bit and then left."

It is believed that this behaviour has breached the code of conduct in multiple ways:

- (i) Not treating others with respect
- (ii) Bullying or harassing a person
- (iii) Bringing the Council into disrepute

The subject of the behaviour is a junior officer who does not wish to raise a formal complaint. Given the seriousness of the incident, it is being progressed on behalf of staff in the organisation by the Head of Paid Service.

Witnesses

Name: ██████████ **Address:** ██████████ **Email:** ██████████

Customer details

Title: Mr. Stuart McKellar

Would you like your identity to be kept confidential? No

Please tell us which best describes you: Other council officer or authority employee

██████████ **RESPONSE TO THE DRAFT REPORT**

Dear Mr Lingard

Thank you for providing me with the opportunity to comment on your draft report. I am genuinely sorry that you feel that my conduct has been obstructive. That was never my intention. I don't think you appreciate just how I feel after over 30 years working as a Councillor, that I learn of not one but two complaints via two fellow Councillors. For me to then find out that the complaints came from officers with whom I have had long standing working relationships and about matters that could have been raised with me directly only added to my level of anxiety and distress.

As to your report, I don't intend to challenge your conclusion. How could I when I have already admitted that I had used inappropriate language. I have also already agreed that my use of bad language in an office situation where there are third parties was wrong but I maintain that there was never any malice or intent in whatever was said, a point that I note you seem to have accepted. My questions were certainly not an attempt to frustrate the process. I merely wanted clarity of what was being said and by whom. I also wanted to make sure that you to understand the context of my discussion with ██████ and the nature of our working relationship. Your report has enabled me to better gain the understanding I was seeking. Having read it, I can see how the way I have been working with officers such as ██████, has exposed both parties to the risk of accusations of having an 'overfamiliar' relationship. I have always tried to work collaboratively with others in order to get the best outcome for the Borough. I have a wealth of local knowledge that I have been able to share to good effect particularly in relation to planning matters. I also have many local contacts and am approached by many people locally about their concerns. I believe that the nature of my working relationship with ██████ and others, has achieved some very good outcomes which may not have come about otherwise. From this experience it seems that this style of working is perhaps no longer appropriate at Bracknell Forest, which is a shame.

As I say I don't intend to challenge your conclusion but I will make the following observations. I accept that some are more a matter for Sanjay to think about when he considers the best way to resolve matters.

In your Executive Summary you make reference to two ██████ officers. The complaint form states that the subject of the behaviour is a junior officer and this, if you recall was one of the points that added to my confusion. Prompted by the detail in your report, my recollection of the discussion on that day was that I was speaking with ██████. I came into Time Square to try to see if anyone was available to discuss planning matters in relation to the ██████ site but there was no one there. Looking in across the corridor, I saw that ██████ was also in the office and as the head of service I went to see him about my concerns about the way that the ██████ site was being managed. Whilst there we also talked about the changes in the size of the planning committee. The Junior officer, whose name I do not know, was not party to our discussion. Whilst I was not speaking to her, I can understand how she may have felt having heard our

conversation. Accordingly, I accept that I may have unintentionally caused offense to ■■■ and that officer A might have found what I said offensive. I don't believe that it is correct to say that I used abusive language against two officers and I did say sorry straight away and I believed that my apology had been accepted.

In para 4.5, SH refers to her view that I may have found it difficult to adjust from my previous role. I am not sure the basis for this comment but if it's a genuine concern then I would invite her to pick up the phone to have a chat. I respect her view, but she clearly does not know that I have been approached several times by new members of the opposition, inviting me to chat over a coffee and learn more about the workings of the council from a member's perspective. I have been happy to help. The suggestion to you that I may mount legal action is also somewhat speculative and I hope that it did not influence your thinking, approach to me or your report. I have not done so before and I have never refused to have a conversation. I do think that her decision to deviate from the Code and inform the Conservative Party Leader, has not helped. Time and again since I first heard about the complaint, I have been made aware of discussions going on about me behind my back. This is not helpful in such situations such as this. I also note in para 4.7, the comment from SH about me approaching a number of junior offers to try to get them 'onside'. I total reject that suggestion. I have not raised this matter with any officer. It would have been inappropriate for me to have done so. I have had officers contact me on a range of planning matters both since the alleged incident and her note to me. I admit that I have contacted some in respect of points of detail on planning matters and I find it difficult to understand how these could have been efficiently dealt with via a third party. Junior officers have also been contacting me during this same period of time.

In para 4.8 again there is reference to the party whip and party leader. Having had conversations about me with SH, they contacted me whilst I was on holiday to tell me of a complaint about the alleged use of language. This was the first I had heard of this and I was given little other detail at that time. I tried to push it aside in my mind for the duration having agreed to pick up the matter upon my return to the UK. The complaint form was only produced some time and some weeks after this conversation. I am very happy with her suggestion about members giving apologies. I remain concerned for any offence I may have caused to ■■■ or any others who may have overheard me despite the apology given at the time. I had already confirmed to Sanjay that I am more than willing to do this again. I have also said that I will try to better control my emotions and use of language in the future. Whilst I don't believe that it's the best approach for planning matters in particular, I am also willing to direct all future dealings via the Executive Directors as per a very recent instruction to all members. I am concerned as to whether or not this would happen in reverse. I don't think junior officers should be able to contact us directly as that then puts us at risk of complaint does it not?

In paras 5.3 and 5.4, the inference in your report is that any time delay was due to me. That is simply not true. My diary note is that you rang on the 4th for a Teams call discussion the following day. Rather than delay any further I agreed to this short notice but I advised that my granddaughter would be with me and this could give rise to problems as she is only 2 years old. Whilst she was very good, I was very much aware of my responsibilities to her during our discussion. I think that your comments in para 5.6 and 5.7 do not fairly reflect the situation I was in. I would not argue that I was "flustered and distracted". Is this really surprising given my fragile state of mind and

child care responsibilities at that time? After many weeks of waiting and chasing for contact; hearing of private meetings and discussions going on about me by others; being aware that two complaints had been made against me, to say I was in a state where I was anxious and upset would be an understatement. You don't know me but I believe that I have given my heart and soul to my role, often without consideration to my own health or fiscal circumstances. Add to this, having been told by the Chief Executive that she had decided 'as both related to my conduct towards officers' that I should stay away from the offices. All of this left me in a somewhat distraught state of mind affecting my health and in particular my ability to sleep. Mindful of this, I think these paragraphs are hurtful, needlessly graphic and should be trimmed. I do agree that the Teams meeting was not as productive as either of us would have liked. Personally, I was hoping for a two-way conversation. Perhaps things may have been different if there was only the one complaint on my mind. I also had a file of information that I was happy to share with you hence why I had wanted the face-to-face meeting that you had to cancel because of your health concerns.

In para 5.9, I don't think it's correct to say "that this was the third time that you had spelt out the specifics etc." In that note, you gave me some of the information that I had been seeking for the first time. My response was no more than a last try to get some of the other points clarified so that I could answer your questions as best I could. If you check that reply at the very bottom, I did make the point that if you don't know the answer to any point, just say so and I also committed to a prompt reply. I therefore don't see how you can conclude in para 5.11, that "this was yet another attempt for me to try to avoid answering the questions." I did so within two days and before your deadline.

In para 6.2 you question how it could have been that I was still unclear as to the nature of the complaint. I can't answer that other than to say that now having seen more of that detail I have found it most helpful. I just don't understand why it could not have been made available sooner.

In para 6.5, I don't understand how you are still unclear at this point of your investigation. What I was trying to get across, not as an excuse, was that [REDACTED] and I had a working relationship that included a degree of banter between us. We perhaps knew more about each other's personal circumstances than we should have. For my part, I am happy to admit that I perhaps lost sight of some boundaries as a result. My conversation with him on that day is perhaps a good example of this. It was a two-way exchange and what was being said was in my view in the belief that we had a good working relationship and friendship. I had never set out to cause any distress to [REDACTED] or officer A and I applaud officer A for raising her concerns. Had their concerns been made known to me sooner I would have done more to try to make amends in addition to the apology I had given at the time.

Finally, and only intended as a helpful suggestion, there will always be learning from an investigation such as yours. Why don't you add a paragraph with any points that occur to you. There are 3 that come to my mind the first two are for me to speak with Sanjay at some time. I found it confusing that parts of the Code were not followed; I think that the role/purpose of the Independent Person should be defined and whilst we seem to have a difference of opinion as to the quality of the supporting information in the complaint form, I hope we can at least agree that there is room for improvement.

Yours sincerely

████████

████████████████████