



## **Local Government Act (Northern Ireland) 2014**

### **In the Matter of former Councillor Declan Boyle – C00064, C00067, C00077 (BELFAST CITY COUNCIL)**

## **Decision of the Acting Northern Ireland Local Government Commissioner for Standards**

### **1. INTRODUCTION**

The Northern Ireland Local Government Commissioner for Standards, Ms Margaret Kelly, has appointed Mr Ian Gordon, OBE, QPM, as Acting Local Government Commissioner (Acting Commissioner) in relation to the Adjudication Hearing process in respect of this complaint. Mr Gordon was assisted by Mr Michael Wilson, Solicitor, Legal Assessor.

Ms Fiona Fee BL appeared for the Deputy Commissioner

Mr James Toal BL appeared for Councillor Declan Boyle instructed by John J Rice & Co Solicitors.

### **2. THE COMPLAINT PROCESS**

Part 9 of the Local Government Act (Northern Ireland) 2014 (the Act) introduced the Ethical Standards framework for local government, based on a mandatory Northern Ireland Local Government Code of Conduct for Councillors (Code), which came into effect on 28 May 2014

On 25 April 2016 the Northern Ireland Local Government Commissioner for Standards (the Commissioner) received a complaint from Mr Tony McGuinness alleging that Councillor Boyle had, or may have, failed to comply with the Code. Councillor Boyle and Mr McGuinness were informed on 25 May 2016 that an investigation was commencing.

On 5 May 2016 the Commissioner received a complaint from Ms Rosana Trainor alleging that Councillor Boyle had, or may have, failed to comply with the Code. Councillor Boyle and Ms Trainor were informed on 2 June 2016 that an investigation was commencing.

On 30 June 2016 the Commissioner received a complaint from Councillor David Armitage alleging that Councillor Boyle had, or may have, failed to comply with the Code. Councillors' Boyle and Armitage were informed on 21 July 2016 that an investigation was commencing.

Former Councillor Boyle's Declaration of Acceptance of Office is dated 24 May 2014. By signing the declaration, former Councillor Boyle affirmed that he had read and would observe the Code.

At the local government elections, held on 2 May 2019, former Councillor Boyle was not re-elected and no longer holds the position of Councillor. In this Decision any reference to Councillor Boyle or former Councillor Boyle is to be read accordingly. The complaint was investigated by Mr Paul McFadden, then the Deputy Commissioner. In his Investigation Report, dated 11 July 2019, the Deputy Commissioner reported that he had found evidence that would point to former Councillor Boyle having failed to comply with:

### **Potential Breach 1: Rules relating to Registration of interests**

#### **Paragraph 5.2**

*Subject to paragraphs 5.4 and 5.6, you must, within 28 days of your election or appointment to office (if that is later), register your **personal interests (both financial and otherwise)** where they fall within a category mentioned below, in your council's register by providing written notification to your Chief Executive.*

The Deputy Commissioner considered the following categories to be the most relevant:

*5.2(a) any employment or business carried on by you*

*5.2(f) any land in which you have a beneficial interest, which is within your council's district*

*5.2(i)(ee) private club, society or association operating within your council's district, in which you have membership or hold a position of general control or management.*

### **Potential Breach 2: Rules relating to Declaration of Pecuniary Interests**

#### **Paragraph 6.1:**

*Section 28 of the 1972 Act [the Local Government Act (NI) 1972] (Appendix J) requires you to declare any pecuniary interest, direct or indirect, that you may have in any matter coming before any meeting of your council. Such interests will be recorded in the register kept by your council for this purpose.*

#### **Paragraph 6.2**

*'You must not speak or vote on a matter in which you have a pecuniary interest. If such a matter is to be discussed by your council, you must withdraw from the meeting whilst the matter is being discussed.'*

### **Potential Breach 3: the Declaration of Non-Pecuniary Interests**

#### **Paragraph 6.3**

*You must also declare any significant private or personal non-pecuniary interest in a matter arising at a council meeting. In addition to those areas set out in paragraph 5.2, an interest will*

*also be significant where you anticipate that a decision on the matter might reasonably be deemed to benefit or disadvantage yourself to a greater extent than other council constituents. Any sensitive information mentioned in paragraphs 5.4 to 5.6 is not required to be given.*

#### **Potential Breach 4: Disrepute**

##### **Paragraph 4.2**

*You must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.*

#### **Potential Breach 5: Compliance with the Commissioner's requests**

##### **Paragraph 4.6**

*You must comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner's statutory powers.*

On 24 June 2020 the Acting Commissioner determined to hold an Adjudication Hearing into the Complaint.

### **3. ADJUDICATION HEARING ON 24 JANUARY 2022**

The Acting Commissioner dealt with preliminary matters where he asked both parties to consider the administrative arrangements for the continuation of the Hearing:

- To revisit the extensive bundle of documents to focus the hearing on the key issues.
- The parties were to compile a Summary of Issues document, which will be used to progress the hearing with a focus on the agreed and disputed facts.
- The parties were to prepare written submissions.

The parties agreed to this course of action. The parties further indicated that progress had been made to narrow the issues between them. The Acting Commissioner directed that an administrative meeting would be held on 8 February 2022, to progress the case, prior to reconvening the meeting on 18 February 2022.

The Hearing was adjourned.

### **4. ADJUDICATION HEARING ON 18 FEBRUARY 2022**

The Hearing was reconvened. During the adjournment period, the parties had compiled joint submissions which comprised:

- The Statement of Facts where forty-five agreed facts, numbered 1(a) to 1(ss) was accepted by both parties.

- The Statement of four Disputed Facts by Councillor Boyle numbered (a) to (d). The Deputy Commissioner, whilst accepting the decision was for the Acting Commissioner, was content not to pursue the alleged breach of paragraph 4.2 of the Code.
- The parties also submitted a 'Joint Position Paper', prepared collaboratively, which set out their position for the resumed Hearing. The Acting Commissioner considered the joint submissions on the Statement of Facts would assist in Stages 1 and 2 of the Hearing.

## 5. STAGE 1 - FINDINGS OF FACT

The Acting Commissioner considered the joint submissions of the parties and, taking those into account, determined the facts of this matter as follows:

- (a) At the relevant times Councillor Boyle was a member of Belfast City Council.
- (b) Councillor Boyle signed an undertaking on 24 May 2014 that he had read and would observe the Local Government Code of Conduct for Councillors.
- (c) Councillor Boyle was required to register his interests on or before 21 June 2014.
- (d) Councillor Boyle first completed the Register of Members interests on 31 July 2014. He records the details of land in which he holds a beneficial interest as: '*Various Properties in Belfast*'. This entry remained unchanged when the Register was updated on 1 August 2016, on 1 July 2017 and on 2018.
- (e) Councillor Boyle was a member and Chair of the Council's Strategic Policy and Resources Committee between 1 April 2015 and 1 June 2016.
- (f) Councillor Boyle was a member of the Council's South Belfast Area Working Group from May 2015.
- (g) Councillor Boyle was a past member and Chairman of LANI having formally resigned in May 2014.
- (h) Councillor Boyle is registered as the joint owner of 31 HMO properties in the Holylands area.
- (i) Councillor Boyle is the joint or sole owner of other properties which are not HMOs in the Holylands area.
- (j) Councillor Boyle provided crime numbers obtained in relation to reported crimes against his properties on 5 June 2019. The information provided refers to an attack on one of his properties in 2014 and 2015.

- (k) Councillor Boyle previously ran an online property rental website, 'Rent Our Properties', until at least 2017 which was operated by his wife.
- (l) In August 2006 the PSNI received information that an organised crime gang were targeting a businessman in the Holylands area to kidnap. Councillor Boyle was identified as a potential target and he was advised of this by police from Lisburn Road station.
- (m) There have been no further specific threats to Councillor Boyle since 2006.
- (n) The Police Service of Northern Ireland (PSNI) hold no records of reports of criminal damage to Councillor's Boyle's rental properties resulting in a warning being issued to Councillor Boyle 4 or 5 years prior to 2017.
- (o) Councillor Boyle met a PSNI Superintendent at Mr Dennis Vaugh's 60<sup>th</sup> birthday party in April 2009.
- (p) The Superintendent subsequently provided a letter specifying the risks Councillor Boyle faced.
- (q) The Superintendent was not the Superintendent for the area in which Councillor Boyle's properties are located.
- (r) In the Superintendent's letter to Councillor Boyle dated 9 July 2014 he referred to having advised Councillor Boyle on his security and stated that publication of Councillor Boyle's properties on a public register could put him and his family at some risk.
- (s) Councillor Boyle hand delivered the letter from the Superintendent dated 9 July 2014, on the same date, to the Chief Executive of the Council, Suzanne Wylie.
- (t) Chief Executive Wylie issued a letter to Councillor Boyle on 12 September 2014 in which she granted him an exemption from disclosing sensitive information related to his interests.
- (u) In her exemption letter Mrs Wylie requested that Councillor Boyle should '*make a declaration disclosing that you have property interests within a defined geographic area of the city*'.
- (v) At some point after 18 August 2016, Chief Executive Wylie asked Councillor Boyle to review the situation regarding his registration of interests.
- (w) On 11 January 2017 Chief Executive Wylie wrote to Councillor Boyle asking him whether or not there had been any changes in his circumstances in respect of sensitive information. Her letter asked that, if Councillor Boyle wished the

information previously excluded from the Register to continue to be treated as sensitive, he should provide an updated letter from the PSNI to verify his position.

- (x) Councillor Boyle did not respond to the Chief Executive's letter of 11 January 2017.
- (y) The Area Working Groups were created as a mechanism for identifying and considering the merits of funding proposals or projects. There were five AWGs in Belfast: north, south, east, west and Shankill. Proposals made to AWGs are ultimately ratified by the full Council. AWGs are not committees or sub-committees of the Council and have no delegated authority to make decisions. However, in September 2014 the Council's Audit, Risk & Governance Services issued a report confirming to all AWG members of the applicability of the code to councillors at AWG meetings. The report referenced the need for all councillors at those meetings to declare all pecuniary and/or non-pecuniary interests. The report also recommended the recording of such declarations by the Council.
- (z) Councillor Boyle brought forward the proposal for an £80,000 grant on behalf of the University Quarter Business Association for environmental improvements in the Holylands area (the Holylands Area Improvement Initiative).
- (aa) Councillor Boyle is registered as the joint owner of 31 HMO properties in the Holylands area.
- (bb) Councillor Boyle owns at least 31 HMO properties on the streets marked as '*target streets*' in the Holylands Area Improvement Initiative proposal.
- (cc) In October 2015 Councillor Boyle sought advice from a council officer on whether to declare an interest in the Holylands Area Improvement Initiative at a meeting of the South Belfast Area Working Group. Councillor Boyle told the officer that his properties would benefit no more than any others should funding go ahead. On that basis, and as the Area Working Group was not the decision-making body, the officer advised that a declaration need not be made.
- (dd) Councillor Boyle did not declare an interest in respect of the Holylands Area Improvement Initiative at the meetings of the Area Working Group on 19 October 2015, 27 November 2015, 15 February 2016 and 14 March 2016.
- (ee) Councillor Boyle declared an interest in respect of his sponsoring of the Holylands Area Improvement Initiative at the meeting of the Area Working Group on 28 April 2016. There is no record of him leaving the room having declared this interest.
- (ff) Councillor Boyle declared an interest in respect of his property interests in the Botanic District Electoral Area at the meetings of the Area Working Group on 20 June 2016, 31 October 2016, 28 November 2016, 19 December 2016, 23 January

2017, and 27 February 2017. There is no record of him leaving the room having declared this interest.

- (gg) Councillor Boyle chaired the meeting of the Strategic Policy and Resources Committee on 20 November 2015 at which the Area Working Group's recommendation to provide funding of £80,000 to the Holylands Area Improvement Initiative was adopted (subject to assessment by officers against the agreed criteria). He did not declare an interest at this meeting in respect of the Holylands Area Improvement Initiative.
- (hh) Councillor Boyle did not declare an interest in respect of the alleygating scheme at the meeting of the Area Working Group on 28 April 2016.
- (ii) Councillor Boyle declared an interest in the alleygating scheme in respect of his property interests in the Holylands area at the meeting of the Area Working Group on 25 May 2016. There is no record of him leaving the room having declared this interest.
- (jj) Councillor Boyle declared an interest in the alleygating scheme in respect of his property interests in the Botanic District Electoral Area at the meeting of the Area Working Group 23 January 2017. There is no record of him leaving the room having declared this interest.
- (kk) Councillor Boyle made no declarations of interest as a member of the South Belfast District Policing and Community Safety Partnership (DPCSP) between his appointment in July 2015 and his first declaration in March 2017. During this period policing matters related to the Holylands area were regularly discussed.
- (ll) At the meeting of DPCSP on 29 November 2016 the Chair person, Councillor Geraldine McAteer, asked the Safer City Co-ordinator, Suzanne Gowling, to obtain advice as to whether or not Councillor Boyle should remain in the meeting following him having declared an interest. Ms Gowling reportedly obtained advice from Democratic Services (Councillor McAteer believed this to be from Mr Stephen McCrory). The advice was as follows: *'because Councillor Boyle would not benefit more than any other landlord and that there was no direct pecuniary interest to be gained at the meeting, there was not a conflict of interest to be declared'* and he was permitted to remain in the meeting.
- (mm) Councillor Boyle declared an interest in respect of planning application (Z/2014/1635/F) at the Planning Committee meeting on 14 June 2016 before speaking on the matter.
- (nn) Councillor Boyle declared an interest in respect of planning application LA04/2015/0264/F at the Planning Committee meeting of 26 July 2016 before speaking on this matter.

- (oo) Councillor Boyle declared an interest in respect of the issue of estate agent signage at the Planning Committee meeting of 26 July 2016 before speaking on this matter.
- (pp) On 5 January 2014 the Tab, a journalistic website covering youth and student culture, published an article entitled '*Well known Holylands landlord Declan Boyle stands for council election*' in 2014. It included an interview with Councillor Boyle and a number of his ex-tenants. One ex-tenant stated the following: '*[Declan] was always standing up for students and making sure they were safe. When I rented off him he was looking into getting alley gates to ensure the houses would be safer.*'
- (qq) Councillor Boyle's property interests were reported in a series of articles by the Irish News in April 2016.
- (rr) Councillor Boyle was interviewed on the BBC radio show 'Good Morning Ulster' on 6 May 2016.
- (ss) Councillor Boyle was not re-elected as a councillor following the local government elections on 2 May 2019.

## **6. STAGE 2 - DETERMINATION ON BREACH OF THE CODE**

The parties submitted a 'Joint Position Paper', prepared collaboratively between Councillor Boyle and the Deputy Commissioner. A copy of the Joint Position Paper is at 'Appendix A' of this Adjudication Decision document.

In summary, Councillor Boyle had sought to engage and co-operate with this hearing process in good faith, and in particular to compile this Position Paper with a view to saving time and expense to the public purse.

In the Joint Position Paper, Councillor Boyle acknowledged that he had breached the Code of Conduct at:

- Paragraph 5.2 of the Code which requires that a councillor's interests must be registered within 28 days of a councillor's election.
- Paragraph 6.1 of the Code which requires the declaration of any pecuniary interest
- Paragraph 6.2 of the Code which states that a councillor must not speak or vote on a matter in which they have a pecuniary interest and must withdraw from the meeting whilst the matter is being discussed.
- Paragraph 6.3 which requires the declaration of any significant private or personal non-pecuniary interest



- Paragraph 4.6 which requires a councillor to comply with any request of the Commissioner in connection with an investigation conducted in accordance with the Commissioner's statutory powers.

Councillor Boyle did not accept that he had breached the Code of Conduct at:

- Paragraph 4.2, you must not conduct yourself in a manner which could reasonably be regarded as bringing your position as a councillor, or your council, into disrepute.

Ms Fee said the Deputy Commissioner acknowledged the assistance provided by former Councillor Boyle in reaching an agreed basis from which the Acting Commissioner may decide on a number of highly related matters/instances, which included the saving of expense and the bringing of an expeditious conclusion to a complex case.

The Deputy Commissioner acknowledged the Councillor Boyle's acceptance of breaches of paragraphs: 5.2, 6.1, 6.2, 6.3 and 4.6 of the Code. Subject to the approval of the Acting Commissioner, the Deputy Commissioner was content not to pursue the alleged breach 4.2 of the Code.

Councillor Boyle acknowledged that breaches of the Code, whereby interests were not registered or declared, or where interests are declared but a councillor nevertheless remains at a meeting in full, do have the potential to impact on public trust and confidence in the councillor and the work of the council as a whole.

**Determination:**

Having established the facts and considered all the available evidence before him the Acting Commissioner determined as follows:

- The Councillor Boyle was elected to Belfast City Council on 22 May 2014 and signed his Declaration of Office on 24 May 2014. By signing the declaration, Councillor Boyle affirmed that he had read and would observe the Code.
- The Code applied to the Councillor Boyle.
- The Acting Commissioner accepted the admissions by the Councillor Boyle that he had breached the Code of Conduct at:
  1. Paragraph 5.2
  2. Paragraphs 6.1 and 6.2
  3. Paragraph 6.3.
  4. Paragraph 4.6
- The Acting Commissioner accepted that the Councillor Boyle had not breached the Code of Conduct at Paragraph 4.2.

This concluded Stage 2.

## 7. STAGE 3 – SANCTION

The Acting Commissioner had received written submissions on mitigation and Sanction from both parties, which have been included in the Record of the Hearing.

### a. SUBMISSIONS BY Ms FEE

#### i. Mitigating factors

Ms Fee said the Deputy Commissioner had referred to the Sanctions Guidelines, Page 9 Appendix A:

*'Factors that the Acting Commissioner may consider when determining the appropriate sanction'*

- a. Councillor Boyle had no prior history of breaching in the code which may provide evidence of 'Previous record of good service and compliance with the code.'
- b. This was Councillor Boyle's first and only term of office and the events that gave rise to the complaints arose early in that term and were repeated on the basis of an incorrect premise which highlighted Councillor Boyle's inexperience in the role.
- c. Councillor Boyle made himself available for two interviews and provided comments on the draft investigation report and therefore should be given some credit for his 'co-operation with the investigation'.
- d. Councillor Boyle was provided with advice on a number of occasions from Council Officers in respect of his need to declare an interest in respect of his property holdings. This provides some evidence of: *'an honestly held (although mistaken) view that the action concerned did not constitute a failure to follow the provisions of the Code, particularly where such a view has been formed after taking appropriate advice'*.
- e. Councillor Boyle's conduct was driven by what he considered to be his adverse personal circumstances, namely a threat made to his and his family's safety some years prior to him becoming a councillor.
- f. Councillor Boyle has subsequently acknowledged that there had been a failure to follow the Code.
- g. The Deputy Commissioner noted the significant passage of time since the events complained of occurred and that Councillor Boyle had continued to engage with the process.

#### ii. Aggravating Factors (Sanctions Guidelines page 9).

- a. An important factor in this case was the protection of the public interest in terms of public confidence in the institution of local government, through those democratically elected to represent constituents. The legitimate aim being pursued by the Code was to provide for and secure the high standards required from elected Councillors. In turn, the purpose of sanction was preservation of confidence in local government representation.

- b. The Deputy Commissioner highlighted the number of separate complaints (3 in total) made against Councillor Boyle two of which were made by members of the public.
- c. Councillor Boyle's conduct was the subject of media reporting and would not have inspired confidence in the Council or the role of Councillors.
- d. Queries/concerns over Councillor Boyle's requirement to declare his property holdings and leave meetings were raised with him by a number of individuals in a range of separate forums, which should have indicated to him that the matter required closer scrutiny and response by him in terms of the code of conduct requirements.
- e. Councillor Boyle was the only person who had full knowledge of his property holdings and should have erred on the side of caution by absenting himself from any part of a meeting which could give rise to a potential conflict of interest.
- f. The Commissioner's Guidance makes clear that familiarity and understanding of obligations under the Code is a matter of personal responsibility for the councillor.
- g. In the Commissioner's 2019 decision in the matter of *Mervyn Rea*, the Commissioner dealt directly with the importance of registering and declaring interests. The decision included a list of 'learning points' for councillors. These included:  
*"The Commissioner wishes to highlight to councillors generally that a failure to declare a pecuniary interest (direct or indirect) may result in a sanction of disqualification. This is a serious conduct matter which is underpinned by section 28 of the Local Government Act 1972. A breach of section 28 may in some cases be a criminal offence."*

### iii. Sanction

Ms Fee considered the sanctions available to the Acting Commissioner:

#### a. No Action:

Is not a suitable outcome to these proceedings, given the nature of the conduct which has given rise to the Acting Commissioner's determination on breach of the Code. This was not an inadvertent failure.

#### b. Censure:

The aggravating factors drew attention to the weight of the public interest in this case as opposed to the minor failures envisaged under this outcome. It was highly questionable in her view, whether censure could adequately cater for the public interest in the circumstances. It was a case of balancing out all of the interests in this case where the breaches admitted by Councillor Boyle to his credit are not minor in nature.

#### c. Partial Suspension:

Not applicable; this provision was designed to meet circumstances in which a Councillor's conduct was such that it was limited to a particular activity or section of council business from which the Councillor could be easily extracted.

#### d. Suspension:

May be adequate in addressing the public interest in so far as it:

- Upholds public confidence in the standards regime and/or local democracy
- Reflects the severity of the matter
- Conveys the matter should not be repeated.

Councillor Boyle had admitted to breaches sufficiently serious to merit the sanction of suspension. The Sanctions Guidelines make clear that the “nature” of the conduct will be taken into consideration when considering whether the sanction is necessary to uphold public confidence, to reflect the severity, and it make it understood that the conduct should not be repeated. The Deputy Commissioner’s view was the breaches are of a serious nature, which related to aspects of the Code that are central to public confidence.

The sanctions guidelines acknowledge that Councillors have been democratically elected to undertake certain tasks and that their ability to serve the public and perform those tasks should only be restricted where such a restriction is justified in the particular circumstances of a case.

For all of these reasons, including the relevant case law to which she had referred, Ms Fee submitted that the Deputy Commissioner thought that suspension would be in line with the decisions on sanction in previous cases and would meet the public interest in this case. However, suspension is unavailable as Councillor Boyle is not a sitting Councillor.

**e. Disqualification:**

The Acting Commissioner may wish to consider whether the conduct is of such gravity as to warrant disqualification. The Sanctions Guidelines state: “Disqualification is the most severe of the options open to the Acting Commissioner.” While there are aspects of the conduct at issue which might point towards disqualification, in all the circumstances of this case, the Deputy Commissioner was of the view that the justice of the matter and the public interest could have been met, in the case of a sitting councillor, by means of the lesser sanction of suspension. Ms Fee said the Deputy Commissioner’s submission was that Councillor Boyle’s case fell within the suspension category.

While Councillor Boyle’s conduct was not minor, given that suspension is unavailable, and in all the circumstances of the case, Ms Fee submitted that censure was the most appropriate of the available sanctions. Whilst ultimately a decision for the Acting Commissioner, public knowledge of the sanction itself, alongside an understanding of the factors that led to it, would help discharge the duty to the public in this case.

**b. SUBMISSIONS BY MR TOAL**

**i. Mitigating factors:**

Mr Toal referred to the Sanction Guidelines:

- a. *'An honestly held (although mistaken) view that the action concerned did not constitute a failure to follow the provisions of the Code, particularly where such a view has been formed after taking appropriate advice.'*

This factor was relevant in particular to the accepted breaches of paragraphs 4.16, 5 and 6 of the Code, which it was suggested were the principal and substantive matters before the Acting Commissioner. Councillor Boyle's reliance on advice received from council officials was of substantial relevance and provided strong mitigating circumstances in relation to the breaches concerning registration and declaration of interests, and removal from meetings.

- b. *'Short length of service or inexperience in a particular role.'*

Councillor Boyle had served only one term in office as a Councillor, and some of the conduct which had given rise to these proceedings occurred within a short period of months of his election. He acknowledged his inexperience, which provided a context to all of the circumstances in this case, and in particular to his reliance on advices and following of what appeared to be established practices in relation to declarations of interest at meetings.

- c. *'Recognition by Councillor Boyle that there has been a failure to follow the Code; [...]'*

Councillor Boyle had recognised by his admissions that there had been a failure to follow the Code.

- d. *'Co-operation with the investigation and the Adjudication Hearing.'*

Mr Toal said that Councillor Boyle had accepted a breach of the Code in connection with his failure to provide details of his property holdings upon request of the Deputy Commissioner's staff. Notwithstanding that conduct, which has been contextualised (this context is further discussed below), it was submitted that Councillor Boyle co-operated with the investigation by his participation in two extensive and lengthy interviews conducted by the Deputy Commissioner's staff and in the provision of various documents to the investigation. Councillor Boyle had, with the assistance of his representatives, co-operated with the adjudication procedure in terms of the provision of a Response to Statement of Facts, witness statements, and discussions. These were fruitful in very significantly narrowing the issues as between the parties and enabling the Adjudication process to proceed without the need for the calling of evidence or protracted legal argument in relation to alleged breaches of the Code. The adjudication procedure in this case had the potential to be protracted and lengthy but has been significantly shortened by virtue of admissions made by Councillor Boyle. This had been acknowledged and welcomed by the Deputy Commissioner.

Mr Toal cited further factors:

- e. Councillor Boyle has no previous findings or determinations against him.
- f. Mr Toal commented that the rules on pecuniary interest are complex and all material facts in this matter arose before councillors had the benefit of a decision, in this jurisdiction, as to the meaning of 'pecuniary interest'.
- g. This matter has been hanging over Councillor Boyle's head for several years. He was first interviewed in January 2017. It is now February 2022. Mr Toal said the ongoing

investigation and latterly the adjudication procedure has been a matter which has caused Mr Boyle significant distress over that period of time. No criticism is made as regards this delay. It is acknowledged that the investigation had been complex and moreover that COVID-19 had intervened. However, Mr Toal submitted that it was appropriate to regard delay as a mitigating factor weighing against a more severe sanction.

## ii. Aggravating factors

Mr Toal contended that only one aggravating factor from the list provided in the Sanctions Guidelines is engaged in this case: *'Repeated failures to comply with the Code.'*

In relation to that aggravating factor, Mr Toal conceded that there have been a number of occasions wherein Councillor Boyle had failed to comply with paragraph 6 of the Code in relation to declarations of interest and the need to leave meetings. The context for those occasions is set out briefly in the joint position paper at paragraph 6 and in greater detail in Councillor Boyle's witness statement. Of particular relevance are the following matters:

- Councillor Boyle's reliance on advice from council officers in relation to the need to declare interests and remove himself from meetings, which he adhered to in good faith.
- The practice he observed in relation to other councillors declaring interests but nevertheless remaining at and speaking at meetings, which he followed on the misunderstanding that such a practice was acceptable and in compliance with the Code.
- Councillor Boyle's inexperience as a councillor, which contextualises all matters.

Mr Toal made submissions on the individual breaches of the Code:

### *'Registration of interests within 28 days of election'*

It has been readily admitted that there was a breach of this requirement which was a breach of a technical nature falling at the lowest end of the scale of seriousness. Councillor Boyle has noted that other councillors similarly registered their interests late. It is highly unlikely that this breach alone would have led to an adjudication procedure; more likely that it would have been dealt with informally or by way of the alternative action procedure, if at all.

### *'Sufficiency of entry in register, and updating of the Register'*

Councillor Boyle has stated that he believed at all material times that what had been registered in connection with his property holdings was sufficient and moreover he did not consider that his circumstances concerning the exemption had changed at any time, such that a change to the register was required (including after receipt of correspondence from the Chief Executive in January 2017). He therefore did not at any time 'become aware' of the need to update the Register, as outlined in paragraph 5.3 of the Code.

Mr Toal said the following points are made in relation to the factual circumstances which pertain in this regard:

- Councillor Boyle has explained that his understanding was that the letter from the Chief Executive which granted the exemption from registering specific details of his properties, in using the term 'declaration' in connection with a 'defined geographical area of the

city', was intended to give him guidance as to what ought to be declared at meetings. He contends that by declaring at certain meetings that he owned properties in e.g., 'the Holylands area', that he was acting in accordance with that guidance.

- Councillor Boyle believed '*Various properties in Belfast*' was sufficient. Mr Toal submitted that it was of substantial relevance, particularly in the context of an inexperienced councillor and against the backdrop of previous discussions about the extent of his registration of property interests, that the Code does not mandate a specific level of detail which has a significant potential to lead councillors into inadvertent breach in this regard.
- It is also significant, in mitigation of Councillor Boyle's position in respect of the sufficiency of what he had noted in his registration of interests, that the Town Solicitor was prepared to state, in the context of a formal response to a Freedom of Information (FOI) request, that Councillor Boyle had been: "*Permitted to make the declaration [in] the format as shown on the Register*". A draft of that FOI response was shared with Councillor Boyle in April 2016. He was aware of that view of the Town Solicitor from various other verbal discussions and was aware the view was shared by other council officers. Mr Toal submitted this context provides a compelling reason for Councillor Boyle to have believed, however incorrectly, that his entry in the register was sufficient in its original form ('Various properties in Belfast').

In relation to Councillor Boyle's actions in response to the letter from the Chief Executive in January 2017, Mr Toal drew the Acting Commissioner's attention to paragraphs 27 and 28 of his witness statement. The Commissioner's Guidance for Councillors (May 2017) provides at paragraph 4.12.8:

*"The registration of personal interests is an element of the Code which I expect will give rise to many questions from councillors. If you are in any doubt about your obligations in this regard, including whether you have an interest that falls within one of the categories of registerable interest that are listed in paragraph 5.2 of the Code, you should seek advice from an appropriate person within your council or your legal adviser".*

#### *Declarations of interests*

Mr Toal submitted that Councillor Boyle had accepted in the joint position paper that paragraph 6 of the Code was breached in relation to declaration of both pecuniary and non-pecuniary interests in relation to his property holdings, as regards the need to make declarations and immediately remove himself from meetings. It has also been accepted that there was a factual breach of paragraph 4.16 of the Code.

Mr Toal drew the Acting Commissioner's attention to mitigating circumstances in connection with this aspect of the case. Councillor Boyle has explained that he did not believe he had a pecuniary or significant non-pecuniary interest which ought to have been declared at various meetings concerning the Holylands Area Improvement (HAI), alley-gating etc. He has now accepted that those interests did exist. However, it was submitted that the Acting Commissioner can take account of the fact that the pecuniary interest has not been quantified. It was submitted

that any benefit accruing to Councillor Boyle in terms of the value of his properties or their 'rentability' would have been of a most modest nature, at the lowest end of the scale.

Mr Toal submitted that Councillor Boyle did, at a substantial number of meetings, 'declare an interest', and therefore his omission on those occasions is solely in respect of a failure to immediately remove himself from them while particular matters were being discussed. It has been explained that there was a practice observed whereby other councillors would also declare an interest but would not leave meetings.

Mr Toal stated that Councillor Boyle declared an interest even where, as has been accepted by the Deputy Commissioner, there was none to declare, in relation to planning applications upon which he spoke. This is indicative of his inexperience and his genuine misunderstanding as to when it was and was not appropriate to declare an interest, but also his integrity in declaring interests for the avoidance of any appearance of a conflict.

Mr Toal described an unfortunate position, in the Code and in Guidance, in that councillors are encouraged on the one hand to seek advice from council officials but set against that are cautioned against reliance on that advice because the ultimate decision is left to the councillor. This is a difficult position for councillors to be in and Councillor Boyle was not fully cognisant of it. It is a matter of substantial mitigation where it transpires that advice accepted and relied upon in good faith has led the councillor into a breach of the Code.

*'Compliance with the Commissioner's requests'.*

It has been readily admitted that there was a breach of this requirement in relation to the provision by Councillor Boyle of a list of the addresses of his properties in the Holylands. It is acknowledged that this was not done, and that therefore there was non-compliance with a request by the Deputy Commissioner in the course of his investigation.

Mr Toal said the context for this was set out at paragraph 3 of the joint position paper. Councillor Boyle was concerned about the risk that details disclosed may be inadvertently disclosed to inappropriate persons. This is not to be taken as any criticism of those involved in the investigation. However, Councillor Boyle had a well-founded concern because correspondence was in the past inadvertently sent to the wrong address.

Councillor Boyle has set out extensively the particular concerns he has had in relation to threats and risks to himself, his family, his tenants, and his properties in his witness statement, which are connected to the risk that the locations of his property holdings may be inadvertently divulged. Most significantly, the very real and visceral fear which he experienced upon being served with the warning 'Police Message' which was exhibited to his statement.

Mr Toal submitted those concerns were genuinely held and provide a significant mitigating context to explain Councillor Boyle's hesitation in providing the addresses for his property holdings to the Deputy Commissioner's investigation. Nevertheless, Councillor Boyle has now accepted without prevarication that his conduct amounted to a breach of paragraph 4.6 of the Code in that he did not provide the information requested.



### iii. Sanctions

Mr Toal said as Councillor Boyle was no longer a councillor therefore, in accordance with the Sanctions Guidelines, suspension is not to be considered as a potential sanction in this case. Councillor Boyle was not re-elected in 2019 and served only one term in office. The disposals therefore available to the Acting Commissioner in dealing with this matter are:

- No action
- Censure
- Disqualification

- a. **No action:** It is acknowledged by Councillor Boyle, that this is not a case where ‘no action’ would be the appropriate outcome.
- b. **Censure:** The Sanctions Guidelines provide at paragraph 9 that ‘Censure will generally take the form of criticism of the conduct which was found to constitute or have given rise to a failure to comply with the Code and a warning as to future conduct.’

Mr Toal submitted that the fact of this extensive investigation and lengthy investigation and adjudication procedure had in effect already amounted to a censure in that Councillor Boyle had faced criticism of his conduct and had an opportunity, as an inexperienced councillor, to become more familiar with key provisions of the Code. He will not be repeating the conduct complained of in future, should he be re-elected as a councillor at any future election.

In the circumstances, censure in the form of a formal criticism of Councillor Boyle’s conduct, with a warning as to future conduct incorporating the lessons now learned, may be considered to be an appropriate means of dealing with the matter.

- c. **Disqualification:** In relation to disqualification, the Sanctions Guidelines state this is the most severe of the options open to the Commissioner. A number of factors which may render this sanction appropriate are listed in the Guidelines at paragraph 19:
  - Councillor Boyle had deliberately sought personal gain (for either herself or himself or some other person) at the public expense, by exploiting his or her membership of the council.
  - Councillor Boyle had deliberately sought to misuse his or her position to disadvantage some other person.

Mr Toal submitted that these factors did not apply in this case. At no time has personal gain or a disadvantage been deliberately sought.

- Councillor Boyle had deliberately failed to abide by the Code, for example as a protest against the legislation of which the Code formed part.

It was submitted that this factor did not apply in this case. Breaches had come about through accepted inadvertence, reliance on advice in good faith and, in the particular context as outlined above, concerned a perception of threat and risk to Councillor Boyle’s person, family, tenants and properties.

- Repeated failures to comply with the Code by Councillor Boyle. For example, if there were repeated failures to comply after a period of suspension then it is highly likely that in a future adjudication decision, the Commissioner faced with a decision about that further failure to comply will opt to disqualify Councillor Boyle.

Mr Toal said It was accepted that there had been a number of failures to comply with the Code. This factor was identical in substance to the aggravating factor which has been accepted as set out above.

The 'repeated' failures which were engaged in this case concerned the matters of declaration of interest and removal from meetings. Substantial mitigating context has been set out in the joint position paper and in Councillor Boyle's witness statement.

The breaches which had now been accepted in this regard arose in the context of advice provided by council officials and relied upon in good faith by Councillor Boyle. This was not a case where there had been a repeated failure to comply after a period of suspension or any previous finding. The 'example' given in the Guidelines in relation to this factor was therefore not apt.

For the above reasons whilst disqualification is undoubtedly properly under consideration, it in itself would be a disproportionate response in the context of mitigating factors and the limited number of factors in support of disqualification which are present in the case.

Mr Toal contended, were Councillor Boyle still in office, this is a case which would be likely to fall within the range of a suspension. A suspension measured in months would have the effect of upholding public confidence in the standards regime and local democracy, reflecting the severity of the matter and making absolutely clear that Councillor Boyle's conduct was not to be repeated. Such a suspension would also properly reflect the various mitigating factors which have been outlined herein, and the relative lack of relevant factors pointing towards the more severe sanction of a disqualification.

Mr Toal said that Councillor Boyle welcomed the submission of the Acting Deputy Commissioner and the suggestion which is, of course, subject to the Acting Commissioner's discretion, that censure is the appropriate outcome in this case and Mr Toal said that Councillor Boyle respectfully agreed and asks the Acting Commissioner to take that into account. The suggestion that censure is the appropriate outcome is effectively an agreed matter between the parties.

Censure meets the aims of the sanctions regime as set out in paragraph 3 of the Sanction Guidelines in terms of preservation of public confidence in local government representatives, the public interest in good administration, upholding and improving the standard of conduct expected of councillors and fostering public confidence in the ethical standards regime introduced by the 2014 Act. And paragraph 3 of the Sanctions Guidelines goes on to say:

*"Thus any sanction imposed will be justified in the wider public interest and will be designed to discourage or prevent the particular respondent from any future failures to comply with the Code and to discourage similar conduct by others."*

Mr Toal concluded, Acting Commissioner, where justice can be done in the case by means of a censure, which is the submission I think of both parties, then in my submission the consideration of disqualification ought to fall away, of course, subject to your discretion, but he thought it would be fair to outline that is a position the parties share, that the justice of this case can be met by way of censure and in his submission disqualification ought not to form a consideration.

## **8. SANCTION**

The prior written submissions on sanction, by both parties, had been very helpful to the Acting Commissioner.

The Acting Commissioner had regard to the Code's Guidance for Councillors in his decision.

He had considered the submissions by both parties in relation to Sanction as well as the Sanctions Guidelines. The Acting Commissioner commended both parties for their approach to the presentation of this case. In particular, the efforts which they had made to ensure this Hearing was able to be conducted fairly and efficiently, recognising the interests of both Councillor Boyle and the Public.

### **i. Mitigating factors**

- a. Former Councillor Boyle had no prior history of breaching the code.
- b. In general, he cooperated throughout the investigation process. The Acting Commissioner accepted the comment by the Deputy Commissioner where she noted: *"The significant passage of time since the events complained of occurred and that former Councillor Boyle has continued to engage with the process"*.
- c. It was his first and only term of office where the issues prompting the complaints occurred early in that term. Councillor Boyle repeated his breaches, based on an incorrect premise, showing his inexperience in his role.
- d. There was some evidence of him honestly holding, although mistaken, a view that his actions did not constitute a failure to follow the provisions of the Code, particularly where such a view has been formed after taking appropriate advice.
- e. His conduct was driven by what he considered to be his adverse personal circumstances, namely a threat made to his and his family's safety some years prior to him becoming a councillor.
- f. Councillor Boyle has recognised, by his admission that he breached the Code, which has significantly contributed to an expeditious conclusion to a complex case. He has faced up to these matters saving time and public money.

## ii. Aggravating Factors

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

## iii. Sanction Guidelines:

The Sanction Guidelines at paragraph 3, state the objectives relevant to determining sanction:

- the public interest in good administration upholding and improving the standard of conduct expected of councillors the fostering of public confidence in the ethical standards regime introduced by the 2014 Act.
- Any sanction imposed must also be justified in the wider public interest and should be designed to discourage or prevent any future failures to comply with the Code or to discourage similar conduct by other Councillors.

The available sanctions are set out in paragraph 68 of the Procedures document:

- a. **No action:** To take no action in this case is not an appropriate response to the failure by Councillor Boyle to comply with the Code. His conduct was of a more serious nature and not merely an 'inadvertent' failure to comply with the Code.
- b. **Censure:** The Acting Commissioner noted the submission by the Deputy Commissioner of balancing the public interest in this case against Councillor Boyle's conduct. That conduct, notwithstanding his admission, was not a 'minor failure' as envisaged in paragraph 9 of the Guidance on Sanctions. It is questionable if the sanction of Censure is a suitable sanction.
- c. **Partial suspension:** is more likely to be appropriate where the conduct related to a particular activity or Council business from which the Councillor could be easily removed. Councillor Boyle is no longer a councillor. Partial suspension is not a suitable sanction.
- d. **Suspension:** The Sanctions Guidelines state that suspension is to be considered where the conduct is not sufficiently serious to warrant disqualification, but the conduct is of a nature that:

- it is necessary to uphold public confidence in the standards regime and/or local democracy.
- there is a need to reflect the severity of the matter; and
- there is a need to make it understood that the conduct should not be repeated.

The breaches admitted by Councillor Boyle are serious and, if he were still a serving councillor, would merit suspension. Under the Sanctions Guidelines, suspension will not be considered if the councillor has not been re-elected.

e. **Disqualification:** is the most severe option and the factors which may lead to disqualification are listed in the Sanction Guidelines at paragraph 19 a. to h.

The Commissioner's Guidance to the Code clearly states that:

*"Familiarity and understanding of obligations under the Code is a matter of personal responsibility for the councillor".*

Councillor Boyle acknowledged in the joint position paper that his conduct had the potential to impact on public trust and confidence. He admitted the breaches of the Code and, regardless of the relevant mitigation, they were serious breaches which required an equally serious sanction. If he had still been a serving councillor, the Acting Commissioner would have suspended him from his role. Suspension would have been a proportionate sanction for his level of breach.

The Acting Commissioner said that only censure or disqualification was an outcome. If he applied the test of proportionality to the breaches committed, then he may struggle to define his breaches as 'minor failures'. Nor, however, are they at the most serious level, which would ordinarily make disqualification a certainty.

In relation to the points from both parties on the Paragraph 19 factors re disqualification, it was the Acting Commissioner's view that he was addressing factors for suspension. If he had still been a councillor, the Acting Commissioner would have suspended Councillor Boyle for a period of 3 months. What he was addressing now was a finely balanced situation between disqualification and censure.

The Acting Commissioner, with some hesitation, decided on censure as being more proportionate on the circumstances of Councillor Boyle's breaches of the Code. Councillor Boyle failed to properly declare his interests and failed to conform by leaving the council chamber. They were serious failures and if he wished to re-enter public office he must learn well from this matter.

The Acting Commissioner had reviewed previous cases in this jurisdiction in relation to pecuniary and non-pecuniary interests and considered the decision in this case is consistent with the decisions in those cases.

Councillor Boyle and all other councillors, still in post, must absolutely understand the Code and its Guidance. It is their public duty to do so and, on this occasion, regardless of the mitigating circumstances put forward, Councillor Boyle failed in that duty.

There is of course an equal duty on Councils and their officers to ensure that Councillors are properly trained for their role, including regular refreshers, in part drawn on the outcomes of such Adjudication Hearings.

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

## **9. LEAVE TO APPEAL**

Former Councillor Boyle may seek the permission of the High Court to appeal against a decision made by the Acting Commissioner, which must be made within 21 days of the date that former Councillor Boyle receives written notice of the Acting Commissioner's decision.

Ian A Gordon

Acting NI Local Government Commissioner for Standards  
11 March 2022

**APPENDIX A**  
**NORTHERN IRELAND LOCAL GOVERNMENT COMMISSIONER FOR STANDARDS**  
**IN THE MATTER OF FORMER COUNCILLOR DECLAN BOYLE**

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**JOINT POSITION PAPER**

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1. This document is a joint position paper prepared collaboratively between Former Councillor Declan Boyle ('Councillor Boyle') and the Deputy Commissioner. Each party sets out their position below. Subject to the Commissioner's direction, it is agreed between the parties that this document may assist the Commissioner's findings of fact and determinations in respect of Stages 1 and 2 of the procedure for adjudication hearings.

**STATEMENT OF FORMER COUNCILLOR BOYLE'S POSITION**

**Paragraph 5 of the Code ('Potential Breach 1')**

2. Councillor Boyle acknowledges that the Northern Ireland Local Government Code of Conduct for Councillors ('the Code') requires at paragraph 5.2 that interests must be registered within 28 days of a councillor's election. He acknowledges that he did not register his interests within the required timeframe and accepts that he breached paragraph 5 of the Code in relation to registration of interests.
3. Councillor Boyle wishes it to be noted that this was because he was in the process of seeking an exemption and because of the intervening summer period when relevant staff took leave. As a result, he first registered his interests a few weeks late. Councillor Boyle notes that other councillors may similarly have registered their interests late.
4. Councillor Boyle acknowledges that the letter received from the Chief Executive of Belfast City Council outlining the extent of the exemption granted to him specified that he must '*make a declaration disclosing that [he had] property interests within a defined geographical area of the city, but that [he would] not be required to specifically list each property*'. Declan Boyle acknowledges that the detail given on the register of interests did not meet with what had been required by the Chief Executive. Councillor Boyle acknowledges that he did not update the registration of interests form after a request from the Chief Executive on 11<sup>th</sup> January 2017. He asserts that this was due to his belief at that time that what had been registered was sufficient and explains that at no point was any insufficiency in terms of what had been noted in the register drawn to his attention. Councillor Boyle refers to paragraph 25 of his written statement dated 22<sup>nd</sup> October 2021.
5. In relation to the basis for the exemption from registering or declaring specific details of his property holdings, Councillor Boyle has explained that he received a serious and

concerning threat notification from police in 2006 advising that



paramilitaries may be planning to carry out some form of attack against him or his family with a view to robbing his business. There have over the years been various attacks such as arson attacks or criminal damage to Councillor Boyle's properties, but it is acknowledged that only one threat notification was received some 8 years before Councillor Boyle's election, which was never rescinded.

#### **Paragraph 6 and Paragraph 4.16 of the Code ('Potential Breach 2' and 'Potential Breach 3')**

6. Councillor Boyle declared an interest as regards his properties in the Holylands area at a number of committee meetings where matters relevant to that area were listed for discussion. This was in accordance with the requirement in the Chief Executive's letter that he make declarations in respect of a defined geographical area of Belfast. It is acknowledged that the Code requires that a councillor must withdraw from a meeting whilst a matter in which an interest has been declared is discussed. Councillor Boyle asserts that he has observed a practice whereby such a declaration may be made by a councillor without the requirement to withdraw from the meeting, but accepts that the fact that others may have potentially breached the Code does not excuse an omission to ensure his own full compliance with it. It is agreed that there were some meetings where issues relating to areas in which Councillor Boyle held properties were listed for discussion and no declaration was made. Councillor Boyle accepts that he breached paragraph 6 of the Code in relation to declaration of both pecuniary and non-pecuniary interests in relation to his property holdings, as regards the need to make declarations and immediately remove himself from meetings. To contextualise these issues, it is acknowledged and agreed that Councillor Boyle sought and received advice on a number of occasions from council officials, who he explains advised him that in circumstances where his properties would not benefit any more than others in relation to a proposal, then he did not need to make a declaration and indeed would be entitled in those circumstances to put forward the proposal. That advice was confirmed with the Town Solicitor when it was first given. Councillor Boyle asserts that no greater advantage was at any point available in relation to his properties than to any other properties in the area under discussion and at no point did he intend to secure an advantage for himself or any other person. It is acknowledged that the advice he received may nevertheless have been incorrect or misleading and that reliance upon it led Councillor Boyle into factual breaches of paragraph 6 and paragraph 4.16 of the Code.

#### **Paragraph 4.6 of the Code ('Potential Breach 5')**

7. Paragraph 4.6 of the Code deals with compliance with Commissioner's requests. Councillor Boyle acknowledges that he did not provide details of his property holdings to the Commissioner's Investigators and accepts this was in breach of paragraph 4.6 of the Code. He has asserted that this was due again to the risk that they may be divulged and lead to a risk to himself and his family, his tenants, and his properties.

#### **Summary of Councillor Boyle's Position**

8. Councillor Boyle has sought to engage and co-operate with this hearing process in good faith, and in particular to compile this Position Paper with a view to saving

time and expense to the public purse. Councillor Boyle has accepted breaches of paragraph 5 of the Code in relation to registration of interests, paragraph 6 of the Code in relation to the declaration of both pecuniary and non-pecuniary interests and paragraph 4.6 in relation to compliance with requests from the Deputy Commissioner in respect of the investigation. Councillor Boyle does not accept the alleged free-standing breach of paragraph 4.2 of the Code, in relation to disrepute ('Potential Breach 4').

9. Councillor Boyle acknowledges that breaches of the Code whereby interests are not registered or declared, or where interests are declared but a councillor nevertheless remains at a meeting in full do have the potential to impact on public trust and confidence in the councillor and the work of the council as a whole.
10. Councillor Boyle accepts that as a result of the matters outlined herein, technical and material breaches of the Code have regrettably arisen. He acknowledges the powers of the Commissioner under Section 59 of the Local Government (Northern Ireland) Act 2014 and confirms that he will submit to any disposal deemed to be appropriate by the Commissioner.

#### **STATEMENT OF THE DEPUTY COMMISSIONER'S POSITION**

11. While acknowledging that this matter is now before the Commissioner for hearing, and that any decisions will be a matter for the Commissioner, the Deputy Commissioner who has investigated this matter acknowledges the assistance provided by Councillor Boyle in reaching an agreed basis from which the Commissioner may make a determination on a number of highly related matters/instances, which includes the saving of expense and the bringing of an expeditious conclusion to a complex case.
12. The Deputy Commissioner welcomes Councillor Boyle's acceptance of breaches of paragraph 5 of the Code in relation to registration of interests, paragraph 6 of the Code in relation to the declaration of both pecuniary and non-pecuniary interests and paragraph 4.6 in relation to compliance with requests. The Deputy Commissioner notes the context and potential mitigation which Councillor Boyle has outlined. The Deputy Commissioner notes that Councillor Boyle does not accept the alleged free-standing breach of paragraph 4.2 of the Code, in relation to disrepute and the Deputy Commissioner's findings in respect of same as set out in the Deputy Commissioner's report under the heading 'Potential Breach 4'. In the circumstances, and while any decision will be a matter for the Commissioner, the Deputy Commissioner would be content not to pursue the alleged breach of 4.2. Similarly, while the decision is a matter for the Commissioner, it is the Deputy Commissioner's position that Councillor Boyle's acceptance of the substantive breaches as outlined above renders it unnecessary to call evidence on or reach a determination in respect of the four remaining 'relevant disputed facts' in the Statement of Facts.