

DECISION NOTICE: INVESTIGATION

Complaint References – COM 322, 323 and 324

On 11 August 2021 the Deputy Monitoring Officer considered the complaints relating to Councillor Pete Molloy of Spennymoor Town Council (COM322, 323 and COM324), in accordance with Durham County Council's Procedure for Local Assessment of Complaints ("the Procedure").

Further to the decision notice dated 13 May 2021, the complaints were referred for investigation. The investigator's final report has now been received. The investigator has concluded that there has been a breach of the Member Code of Conduct.

In accordance with the Procedure, where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person, may seek local resolution to the satisfaction of the complainant in appropriate cases. Where local resolution is not appropriate or possible, the investigation findings will be reported to a Hearing Panel of the Standards Committee for local determination.

This summary decision is produced to record the decision taken following completion of the investigation and includes the main points considered, the conclusion and reasons for that conclusion. It will be available for inspection at the offices of the Council for six years beginning with the date of the decision. However, the summary will not be made available for inspection until the member who was the subject of the complaint has received the written summary of the decision.

Complaints

Three complaints were referred for investigation relating to the conduct of Councillor Molloy (the Member) which are summarised below.

COM 324

It is alleged by the Clerk that she has been subject to bullying by the Member and that he had made an unfounded accusation on Facebook that she had conspired to make a false allegation of bullying against him. Additionally, it is alleged that the Member made complaints to the Council about the Clerk which were unfair and unfounded.

COM 322

It is alleged by an officer of the Town Council that the Member made a comment at a Council workshop meeting and a post on Facebook, both suggesting that the officer should be gotten rid of.

COM323

Members of the Town Council have submitted a complaint relating to the conduct of the Member, in particular his comments at meetings and on Facebook relating to the officers of the Council. Any findings made in respect of COM 322 and 324 will be applied to this complaint as it mirrors the primary allegations made by officers.

Code of Conduct

The complaints relate to the conduct of the Member as a Spennymoor Town Councillor and the relevant paragraphs of the Code of Conduct are:

1. he/she shall behave in such a way that a reasonable person would regard as respectful at all times, and not bring the Town Council or their office into disrepute.
2. he/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
5. he/she shall not share, discuss or disclose information to others which is confidential or where disclosure is prohibited by law.

Decision

The Deputy Monitoring Officer, in consultation with the Independent Person has decided that a Hearing Panel of the Standards Committee should be convened to determine the complaints.

Reasons for decision

In respect of COM 324, the Investigating Officer found that the statement on Facebook relating to the Clerk amounts to a failure to treat the Clerk with respect and brings the Council into disrepute. Additionally when considered in light of earlier similar statements also published on Facebook, it is suggested that conduct of the Member amounts to bullying of the Clerk.

The Investigating Officer noted that the Facebook post on 4 December 2020 had a striking similarity to the conduct which resulted in the finding on COM 263 that he had disrespected the Clerk. The repetition of essentially the same behaviour suggests that the Member has ignored the earlier warning that this could constitute bullying. As the Governance Solicitor noted in COM 263, bullying behaviour generally consists of a course of conduct (i.e. a pattern of behaviour). Given the obvious similarity of the two posts, the Investigating Officer considers that the two incidents do constitute a pattern of behaviour, notwithstanding that there was a period of 18 months between them.

The Investigating Officer concluded that there had been no breach of the Code by the Member in making complaints about the Clerk. The Investigating Officer placed particular weight on the fact that the Member had followed the appropriate procedure for raising complaints against the Clerk and recorded that:

“It is in the public interest that councillors should not be deterred from holding senior officers accountable for their official actions, provided the appropriate channels are used.”

On balance, in this instance, the Investigating Officer considered that the Member’s enhanced right of freedom of expression outweighed the right of the Clerk to be protected from unjustified criticism.

In respect of COM 322, the Investigating Officer found that the repeated suggestion of getting rid of the officer’s job amounted to a failure to treat him with respect, brings the Council into disrepute and also constitutes bullying. The Investigating Officer records that the circumstances of any individual’s employment are both private and sensitive and, in particular, termination of an individual’s employment should never be discussed in such a casual and public way. The Investigating Officer recorded that the conduct of the Member has harmed the interests of the employee, but it also undermined the relationship of mutual trust and confidence between the authority and its officers, which harmed the public interest in good administration.

On considering the complaint and the investigation, the Deputy Monitoring Officer considers the complaints and the findings of the Investigating Officer to be sufficiently serious to warrant consideration and determination by a Hearing Panel of the Standards Committee. The Deputy Monitoring Officer notes that there has been an earlier complaint where the Member had been warned about such conduct and there had been attempts by the Town Council to mediate however these have not prevented the continuing complaints against this Member for conduct which is said to be contrary to the Code. The earlier attempts at resolution coupled with the entrenched position of the Member in respect of these complaints, the Deputy Monitoring Officer considers that it is appropriate to refer these complaints to a Hearing Panel of the Standards Committee for determination.

This decision notice is sent to the person making the allegations, the Clerk to Spennymoor Town Council and the Member against whom the allegations were made.

Next steps

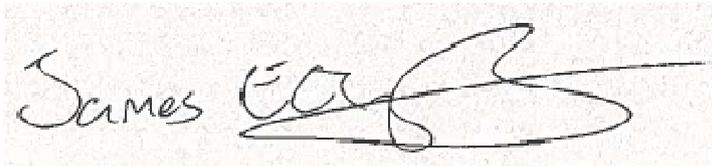
In accordance with the Durham County Council local determination procedure a Hearing Panel of the Standards Committee will be convened to consider the complaints and the arrangements will be confirmed in writing to the parties.

Right of Appeal

Code of Conduct complaints are governed by the provisions set out in the Localism Act 2011. The Localism Act 2011 does not allow a right of appeal and this decision is final.

Terms of reference

The Localism Act 2011

SignedA handwritten signature in black ink on a light-colored background. The signature is written in a cursive style and appears to read 'James Etherington'.

James Etherington
Deputy Monitoring Officer
Dated 11 August 2021