

Consideration of a Code of Conduct Complaint

Decision Notice

Complaint No.:	Complaint received	Deadline for assessment
0018058	30 March 2022	27 April 2022 ¹
Monitoring Officer:	Independent Person(s)	Date of Meeting(s):
Susan Sale	Osama Raja Andrew Mills-Hicks	11 January 2023
Investigating Officer:		
Emma Griffiths		
Name of complainant(s):	Name of Subject Councillor:	City / Parish Council:
Mr Tim Shickle (Oxfordshire County Council Officer)	Parish Cllr Michael Evans	Littlemore Parish Council

Power to determine the Complaint

1. Section 27(1) Localism Act 2011 provides that a relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority. Section 27(2) Localism Act 2011 provides that a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members of the authority, when they are acting in that capacity.
2. In response to these obligations, Littlemore Parish Council adopted a code of conduct, governing the conduct expected of Littlemore Parish Councillors.
3. Section 28 Localism Act 2011 provides that arrangements must be in place to deal with complaints of Councillors breaching their code of conduct and in this case the arrangements provide that the District Council is responsible for considering and determining allegations of breach of the code relating to Parish Councillors within their Districts.
4. The Code of Conduct complaint against Parish Cllr Michael Evans has been determined under Section 22 of the constitution for Oxford City Council. The decision was made by a Local Panel Hearing of the Standards Committee held on 11 January 2023, in accordance with the 'Procedure for dealing with Code of Conduct complaints against Councillors'.

¹ Deadline extended due to diary and leave commitments of all parties

Summary of complaint

5. The Complainant alleged that the Subject Councillor, during a telephone call, spoke to the Complainant in a belittling, bullying, aggressive and threatening manner. The Subject Councillor referred to the Complainant as incompetent, requiring performance management and useless, stating that a child could do better. This was in breach of the Parish Council's Code of Conduct (para 9) and its Member and Officer Protocol (para 3.2.d) which states that Officers can expect from Councillors respect, dignity and courtesy. The following sections of the Code were therefore relevant:

General Obligations	
9	Respect for others You must treat others with respect and ensure that you are aware of and comply with all legal obligations that apply to you as a member of co-opted member of the council and act within the law;
10	Bullying You must not bully any person

6. Upon receipt of the complaint, the Monitoring Officer undertook an assessment of the complaint, in consultation with the Independent Person, and concluded that the complaint merited further investigation. An Investigating Officer of Oxford City Council was appointed to carry out the investigation and provided a report to the Monitoring Officer.
7. The Monitoring Officer received the Investigator's report and noted that evidence was provided to support a breach of paragraphs 9 and 10 of the Code. The Monitoring Officer therefore concluded to refer the complaint to the Local Hearing Panel of the Standards Committee for determination.

Local Hearing Panel of the Standards Committee 11 January 2023

8. The Local Hearing Panel, comprised of three members of the Standards Committee, and met on 11 January 2023 to consider the Investigating Officer's report and to make a determination as to whether the Subject Member had breached the Littlemore Parish Code of Conduct. The Subject Councillor was in attendance. The Sub-Committee did not resolve to exclude the public from the meeting.
9. The Investigating Officer and the Subject Councillor presented their case and both had the opportunity to call witnesses and ask questions of each other's witnesses. Neither the Investigating Officer nor Subject Councillor elected to bring witnesses, and answered questions put to them by the Panel.
10. The Investigating Officer summed up her report that in her opinion the Subject Councillor let his frustrations get the better of him and he spoke to the Complainant in an offensive and abusive way. Whilst it was noted that the Subject Councillor was

entitled to a legitimate challenge of the delays in dealing with the lighting issues and the performance of the County Council's Road & Safety Team, his direct criticism of the Complainant during the conversation on 23 March 2022 amounted to personal abuse and was offensive in nature. The approach taken by the Subject Councillor demonstrated a lack of understanding that the language he used was inappropriate, offensive, insulting, humiliating and delivered in a manner that would undermine the Complainant.

11. The Subject Councillor summed up his case and stated that he did not feel that his comments regarding the Complainant requiring performance management constituted bullying and felt that he was being truthful. He denied that he had threatened to advertise the Complainant's incompetence, and that of his team, on social media, and added that he had meant that he would only update the community Facebook page with the lack of progress made by the Council. The Subject Councillor further stated that he had felt the Complainant to be racially motivated in making this complaint, of which despite not meeting personally, could have easily been established from his Facebook profile.

Considerations and Conclusions

12. The Local Hearing Panel had before them the following documentation:
1. Monitoring Officer Report
 2. Investigator's Report
 3. Complaint Form
 4. Subject Member's response
 5. Arrangements for dealing with code of conduct complaints
 6. Littlemore Parish Code of Conduct
 7. Local Hearing Panel Procedure Rules

Views of the Independent Person

13. The Independent Person was called to present his opinion to the Local Hearing Panel prior to decision and advised that in the first allegation of respect, he found that the Members' Code of Conduct had been breached as the Subject Councillor had 'crossed the line' in his manner of speaking to the Complainant in a disrespectful way. He went on to consider the allegation of bullying and advised that whilst it had been made clear throughout the hearing that bullying can be for a singular event and not a pattern of behaviour, he did not feel that this singular event should constitute bullying, as the Subject Councillor had failed to recognise that the tone, language and methods in communicating used in his work culture would be acceptable in this case. He felt that the Subject Councillor had 'gone too far' in this case, but did not deliberately intend to bully the Complainant in order to get his message across.

Paragraph 9: Respect

14. The Local Hearing Panel considered whether the Subject Councillor had breached the Members' Code of Conduct paragraph 9. The Panel noted the Subject Councillor's response to the Monitoring Officer in the paperwork, and at the Local Hearing Panel, which stated that he did 'not consider that he said anything bad

during his telephone conversation with the Complainant and that he didn't swear'. The Local Hearing Panel reviewed this against the information provided within the Investigator's Report that when considering respect for others, 'as an elected representative of the public, it is important for a parish councillor to treat others with respect and to act in a respectful way', and that it was not appropriate in the context of his position as a Councillor. The Local Hearing Panel further noted that the Littlemore Parish Council Code of Conduct states that a Councillor should 'promote and support high standards of conduct when serving in your public post' and felt that the Subject Councillor had fallen short of this standard when acting on behalf of Littlemore Parish Council.

15. The Local Hearing Panel considered the Subject Councillor's view of his right to freedom of speech as reported in his response to the complaint, and considered this against Article 10 of the European Convention on Human Rights (as incorporated in the Human Rights Act 1998) included within the paperwork provided to the Panel. The Local Hearing Panel noted this information, but felt that it did not qualify as an absolute, and should be considered within the context of its delivery.
16. In determining the assertion made by the Subject Councillor that this was a racially motivated complaint against the Subject Councillor, the Local Hearing Panel found no evidence to support the claim that the Complainant had sought out his profile on Facebook prior to making this complaint, and done so based on this.
17. Therefore the Local Hearing Panel were in agreement that the Subject Councillor had breached the code of conduct in paragraph 9.

Paragraph 10: Bullying

18. The Local Hearing Panel proceeded to consider the alleged breach of paragraph 10 of the Members' Code of Conduct, in that 'you must not bully another person'. The Panel considered the Subject Councillor's comments made both in the paperwork and during the hearing that he had not bullied the Complainant, but had only pointed out his incompetence. He asserted that he had not intended to publicise the email exchange on social media, however had intended to update the local residents of the current lack of progress made by the Council. The Panel considered the evidence provided in the paperwork against these comments, and attached weight to the definition of bullying defined in the Code of Conduct as 'offensive, intimidating, malicious, insulting or humiliating behaviour which attempts to undermine, hurt or humiliate an individual or group'. The Panel also noted that bullying by definition can constitute one incident or be part of a pattern of behaviour. The Panel considered that whilst it might not have been the intention of the Subject Councillor to bully the Complainant, his resulting actions did constitute bullying and was unbecoming for a Councillor who should recognise and aim to promote the standards outlined in the Code of Conduct.
19. Furthermore, whilst the Local Hearing Panel understood and appreciated the work of the Subject Councillor in supporting his constituency in his role as a Councillor, felt that this 'passion for results' could be delivered in a more positive and respectful

manner, and a better understanding of the Code of Conduct could provide the necessary development required when communicating in his position as a Councillor.

20. Therefore the Local Hearing Panel were in agreement that the Subject Councillor had breached the code of conduct in paragraph 10.

Sanctions

21. The Local Hearing Panel invited the Investigating Officer to address them in terms of appropriate sanctions. The Subject Councillor declined to offer any recourse to these sanctions or offer any of his own.

22. Having determined that the Subject Councillor had breached the Littlemore Code of Conduct in respect of paragraph 9 and 10, and having taken account of the representations made by the Investigating Officer and the views of the Independent Person, the Local Hearing Panel voted in favour of advising the Parish Council to impose the following sanctions:

1. The Subject Councillor provides a formal written apology to the Complainant within 14 days, to be sent via the Monitoring Officer.
2. The Subject Councillor provides a formal apology to Littlemore Parish Council for breaching the code of Conduct within 14 days.
3. The Subject Councillor attends Code of Conduct training, either via the Parish Clerk or Monitoring Officer, within 3 months of the date of this decision notice.

23. The decision notice has been sent to the Subject Councillor, the Complainant, the Independent Persons and Littlemore Parish Council, and will be published on the council's website.

24. Under Paragraph 10, of the 'Procedure for dealing with code of conduct complaints against councillors' of Oxford City Council's Constitution, there is no right of appeal for the Complainant or for the Subject Councillor against a decision of the Monitoring Officer or of the Standards Committee. However, the Monitoring Officer reports these decisions to the Council's Standards Committee so there is oversight of how these matters are dealt with.

Signed



Name

Susan Sale, Monitoring Officer, Oxford City Council

Date

23 February 2023

Publication

Internal: to Parish Council/Complainant/Subject Councillor
External: Oxford City Council website