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NORTH HERTFORDSHIRE DISTRICT COUNCIL

STANDARDS SUB-COMMITTEE

MONDAY, 5TH DECEMBER, 2022

DECISION NOTICE

Please find attached the Decision Notice published in relation to the above cancelled meeting:

Agenda No **Item**

DECISION NOTICE - COUNCILLOR COMPLAINT 9-2022

This meeting was cancelled following an apology received from the Subject Member, under paragraph 8.2 of the Complaints Handling Procedure, found here: [Complaints Procedure \(north-herts.gov.uk\)](http://north-herts.gov.uk)

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Complaint 9-2022

Decision of the Monitoring Officer Jeanette Thompson
Date: 5 December 2022

Decision:

To accept an apology from Cllr Dennis-Harburg in relation to the complaint 9-2022 (under Paragraph 8.2 of the Complaints Handling Procedure¹).

Background/ reasons for the decision:

A complaint was received on 11 January 2022 from Cllr Derbyshire regarding alleged conduct of Cllr Dennis-Harburg.

The complaint concerned articles published in the Hitchin Nub and the Comet on 11 and 12 January 2022 respectively in relation to the then forthcoming Council meeting on 20 January 2022. These articles quoted Cllr Dennis-Harburg referring to an internal 'closed' meeting and what the Leader of the Conservative Group (Cllr Claire Strong) is stated to have said in that closed meeting on 7 January 2022. One article also referred to emails sent to the press.

It was alleged that these actions were in breach of the North Hertfordshire Councillor Code of Conduct (in section 17 of the Constitution²), specifically paragraphs 4 and 5, which provide:

Paragraphs 4.1 I do not disclose information:

- a. *given to me in confidence by anyone*
- b. *acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless*
 - i. *I have received the consent of a person authorised to give it;*
 - ii. *I am required by law to do so;*
 - iii. *the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or*
 - iv. *the disclosure is:*
 1. *reasonable and in the public interest; and*
 2. *made in good faith and in compliance with the reasonable requirements of the local authority; and*
 3. *I have consulted the Monitoring Officer prior to its release.*

Paragraph 5. Disrepute

As a Councillor:

- 5.1 *I do not bring my role or local authority into disrepute.*

As the complaint was about the Leader of Council (Cllr Dennis-Harburg), then under the Procedure the complaint was referred to an external Investigator to assess the complaint, Mr Paul Hoey, and thereafter referred to Ms Verina Wenham to investigate the complaint.

Ms Wenham's investigation concluded that there was a case to answer in respect of (Paragraph 4) release of confidential information in relation to the closed meeting, release of emails and (Paragraph 5) bringing the office of Councillor into disrepute (but not the Council).

Under Paragraphs 8.1 and 8.2, the North Hertfordshire Councillor Complaints Handling Procedure sets out the processes that can be followed when an Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of

¹ <https://www.north-herts.gov.uk/sites/default/files/Complaints%20Handling%20Procedure%2020.10.21.pdf>

² <https://www.north-herts.gov.uk/council-constitution>

Conduct. It is possible to have an alternative remedy and/ or for a matter to be listed for a Hearing before a Sub-Committee.

Paragraph

8.2 of the Procedure provides:

Alternative remedy

8.2. The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult the Independent Person and the complainant and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member acknowledging that their conduct was unacceptable and offering an apology, and/or other remedial action (such as training or mediation) by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (and the Parish Council) for information, but will take no further action. If the Member fails to abide by the Alternative remedy the Monitoring Officer may re-open the issue and refer the case to the Standards Sub-Committee for a hearing to determine whether there has been a breach of the Code of Conduct.

On 2 December an apology was received, in the form of Appendix A. It was considered with the Independent Person, Mr Nicholas Moss OBE, to reflect the conclusions reached by the external Investigator and to be a fair resolution to the issue. Cllr Derbyshire was notified of this on 2 December and for any comments regarding this to be provided on or before 5 December. The apology was accepted by the Monitoring Officer on 5 December.

Legal background:

The Local government standards regime was historically overhauled in 2010, with the removal of a mandatory code of conduct and sanctions.

Under section 28(6) the Localism Act 2011, the Council is obliged to have arrangements in place under which allegations can be investigated and a decision on allegations taken.

The Complaints Handling Procedure is the adopted 'arrangements' of the Council, last approved in October 2021 by the Standards Committee. The potential options and any sanctions if a complaint is upheld are listed in the Procedure.

Paragraph 8.2 provides that an apology is one of the remedies available under the Procedure. In accepting this apology it will obviate the need for further hearings, costs and resource.

Note the Sub-Committee members were contacted regarding the apology on 5th, and about the hearings on 5th and 15th. The hearings were vacated, as the alternative remedy was a reasonable resolution of the matter without the need for a hearing (as per paragraph 8.2 referred to above).

This complaint outcome will be reported through to the Standards Committee when it next meets.

Appendix A - apology

Dear Sir/Madam

RE: Code of Conduct complaint

I write in respect of the Code of Conduct complaint which was made against me by Cllr Derbyshire.

I wish to apologise for my conduct on 11 and 12 January 2022, in particular, for making the decision to disclose information concerning the full Council meeting on 20 January 2022 to The Hitchin Nub and The Comet.

By way of an explanation, but not as an excuse, I want to make clear that at the time I was deeply distressed by the death of my deputy leader, Cllr Paul Clark, who passed away due to Covid-19 in December 2021. Around the time of his passing, there were serious concerns regarding the new strain of Covid-19, OMICRON, and, during the closed meeting of the Council's Response and Recovery Board on 7 January 2022, myself and other senior Members and Officers discussed how this new health risk would impact the safety measures to be taken during the full Council meeting on 20 January 2022.

At the time, I was frustrated and upset by the Conservative Group's view that the meeting on 20 January could take place with all Members in attendance. I felt that a decision to hold a meeting with all Members in attendance could pose a serious health risk due to the rise in numbers of those infected with Covid-19 at the time.

However, I fully accept that, as set out in the external Investigator's [Ms Wenham's] report, I should not have disclosed confidential information to The Hitchin Nub and The Comet on 11 and 12 January 2022 respectively, in particular, details of the discussion held during the Council's Response and Recovery Board meeting on 7 January 2022 as well as the subsequent email correspondence between myself and Cllr Strong and other Councillors.

I appreciate that it is important that closed meetings held by the Council remain confidential (as appropriate in the circumstances) to allow Members to discuss matters freely and to work together on a cross-party basis. And I accept in retrospect that my actions at the time were unacceptable. As I explained to Ms Wenham during the course of the investigation into this complaint, I have had time and space to reflect on these issues and have taken learning from this experience

I note that Ms Wenham's investigation report concluded that my conduct could reasonably be regarded as bringing my office of Councillor into disrepute. I regret any negative impact that my conduct has had in respect of the public's perception of my role as a Councillor, this was certainly not my intention.

I am also sorry if my conduct on 11 and 12 January 2022 has caused offence to Cllr Strong, it was not my intention to cause any such offence. I trust that, going forwards, we can continue to work together as senior Members of the Council.

Yours sincerely



Councillor Elizabeth Denning-Harburg

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