

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