

DECISION NOTICE: LOCAL RESOLUTION



Complaint Reference 647874596

1. The Governance Lawyer has considered a complaint submitted by Cllr Janet Gardner about the alleged conduct of Cllr Alistair Rutter of Woodland Parish Council.
2. The system of regulation of councillor conduct in England is governed by the Localism Act 2011. Local authorities are under a duty to promote and maintain high standards of conduct by their elected Members and co-opted Members. Every local authority must have a code of conduct for its Members, which must be consistent with the 'Seven Principles of Public Life': selflessness, honesty, integrity, objectivity, accountability, openness, and leadership. The code of conduct must also make provision for the registration and disclosure of pecuniary and other interests.
3. Local authorities, other than a parish council, must also have in place arrangements under which allegations that a Member has failed to comply with the authority's code of conduct can be investigated and decisions on allegations can be made. As part of those arrangements, they must appoint at least one Independent Person whose views must be sought and taken into account before making a decision on an allegation that it has decided to investigate.
4. Woodland Parish Council has adopted the Woodland Parish Council Code of Conduct for Members, and this is available for inspection on the Parish Council's website.
5. Durham County Council has adopted and published a procedure for how allegations that one or more of its Members, or Members of a parish council in respect of which the County Council is the Principal Authority, has failed to comply with the relevant authority's code of conduct for Members can be investigated and decisions on allegations can be made.
6. This complaint was assessed in accordance with Durham County Council's Procedure for Member Code of Conduct Complaints ("the Procedure").

7. The Procedure requires the Monitoring Officer to ensure that all Member Code of Conduct complaints are assessed as soon as reasonably possible, and normally within 20 working days. The Monitoring Officer, in consultation with the Independent Person where appropriate, will ensure that the complaint is considered and decide if any action should be taken on it.
8. The Monitoring Officer has delegated responsibility for the initial assessment of Member Code of Conduct Complaints to the Governance Lawyer.
9. Following initial assessment of the complaint, there are four possible outcomes: (a) That no action should be taken in respect of the complaint; (b) To seek local resolution; (c) To refer the complaint for investigation; (d) To refer the complaint to the Standards Committee.
10. This decision notice is produced to record the decision taken following initial assessment and includes the main points considered, the conclusion and the reasons for that conclusion. It will be available for inspection at the offices of Durham County Council for 6 years beginning with the date of the decision.

Complaint

11. The Complainant alleges that between March 2024 and to date the Subject Member has been insulting and abusive to her on many occasions both verbally at Parish Council meetings and by email. The Complainant says the Subject Member has broken the Code of Conduct in terms of integrity, objectivity, accountability, and honesty, that he has not exercised independent judgement, listened to the interests of all parties, remained objective in his decisions, valued his colleagues and engaged with them in an appropriate manner or treated her with respect or courtesy.
12. The Complainant says the Subject Member has also been part of a sustained campaign of bullying against her together with Becky Land, Simon Land and Councillor Robert Teasdale.
13. The Complainant says the Subject Member has referred to her as unstable, unwell, not normal, abnormal, mentally ill, in need of serious help, irrational, having concerning traits, acting illegally without identifying which law she has broken, of using a platform of hate, running a kangaroo court and of putting on the "JG" show which should be marked out of 10 as better than the Jeremy Vine Show. The Complainant says the Subject Member has also

made threatening references to the capture, beating, rape and murder of Boudica in his quotes of "Watling Street 61AD and a very bloody battle of the Roses namely "Towton 1461".

14. The Complainant says the Subject Member has also threatened her by saying that "She has now got 3 family names opposing her! and there's more! question is how many more?"
15. The Complainant says because of the threatening nature of some of the Subject Member's email, she contacted the Police and they issued a crime number CR100534542 for malicious communication and PC 9102 Karen Brooker of Durham Constabulary spoke to the Subject Member and advised him to stop. The Complainant says unfortunately he has not done so, and she has raised the matter with the Police again.
16. The Complainant says the Subject Member has also insulted several other Woodland Parish Council members by calling them "pitifully weak, unable to stand up to her (the Complainant assumes this is a reference to her), not one backbone amongst any of you, SHAME on ALL of you, the only person who would be proud is Judas himself, I wouldn't trust any single one of you" and that he "stands with the Teasdales and the Lands". The Complainant presumes this means the Subject Member does not stand with, or for, Woodland Parish Council.
17. The Complainant says the Subject Member has stated that he does not owe her an apology and will not accept the findings of the Governance Lawyer in respect of his complaints against her which were not upheld. The Subject Member has stated in an email that he did the right thing by complaining about her and "if I had to do it all again I would gladly do so 100 times over" He also stated that "if that individual is waiting for an apology, She is going to wait a long, long time, Say the next ice age or till Hell freezes over".
18. The Complainant says the Subject Member also walked out midway through a Parish Council meeting on 10 June 2024 stating that he would not be doing any work for the Parish Council while we were between Clerks and he boycotted the next meeting in protest at the Parish Council asking Simon Land, the then Parish Clerk, to attend a performance review.
19. The Complainant says that at the most recent Parish Council meeting on 12 September 2024, the Chair Cllr Nick Peckett asked the Subject Member if he was prepared to apologise for his behaviour towards her and the entire PC, with the exception of Councillor Robert Teasdale, and the Subject Member said he was prepared to apologise to the other Councillors but not to her. The Subject Member said he was prepared to work with the Complainant in the future in a "professional manner", but he would never apologise to her and that he was right in his complaints about her, regardless of the conclusions of the Governance Lawyer regarding the complaints made against her by Becky Land, Simon Land, Robert Teasdale and himself. The Complainant says that later in the meeting the Subject Member referred to her as a "passive

aggressive bully who plays the victim", once again breaking both the Code of Conduct and his earlier promise.

20. The Complainant says she has delayed lodging this complaint against the Subject Member as she wanted to wait for the outcome of the complaints made against her as detailed above. However, after the meeting of 12 September the Subject Member made it very clear that he has no intention of stopping his abusive, threatening and insulting behaviour towards her, so she feels she has no choice but to take matters further. The Complainant says she believes that the Parish Council will be making their own decisions about how best to deal with the Subject Member's unacceptable behaviour, but obviously she cannot be involved in those decisions.

21. The Complainant submitted a number of documents in support of her complaint.

Potential breaches of the Code of Conduct

1. The allegations in the complaints relate to a potential breach of the following paragraphs of the Woodland Parish Council Code of Conduct for Members

(j) Always treat people with respect, including the organisations and public they engage with and work alongside;

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. Members should express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. Members must not, however, subject individuals, groups of people or organisations to personal attack.

Members should treat members of the public politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members.

Members equally have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, Members may stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Members, where appropriate action could then be taken under the Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's relevant protocols;

(m) Not to bully or harass any person (including specifically any council employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of the code of conduct. Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual. Bullying and/or harassment may take many forms, it could include but is not limited to age, disability, gender reassignment, race, religion, belief, sex and/or sexual orientation

(n) Not to bring the role of Member or the local authority into disrepute and be aware that the actions and behaviour of a Member are subject to greater scrutiny than that of ordinary members of the public

Response of the Subject Member

22. The Subject Member submitted a series of emails. He says that says that he completed an e-learning course on 17 September called "Standards in Public Life" produced by the National Association of Local Councils. The Subject Member says the Complainant recommended this training to the Parish Council, and the Parish Council agreed all councillors would complete this training. The Subject Member says this was so that they could "move on" from previous complaints which had been made under the Member Code of Conduct. The Subject Member says "It is a shame Cllr Gardner has gone back on her word after it was her idea we should do the course. I'm very disappointed as I thought we ALL agreed to moving on from this". The Subject Member says he is on "good working terms with other members on the parish council. As we have moved on from this".

23. The Subject Member submitted an email from the Chair of the Parish Council dated 17 September, which reads as follows: "Having completed the Model Councillor course you will now be familiar with the Civility and Respect aspects of the course and the standards expected of us all as Councillors.

I want to avoid situations that may arise between yourself and all other councillors such as that between yourself and Councillor Gardner.

I ask you to assure us in writing that you will keep within the standards laid down in the model councillor description and not get involved in situations that lead to acrimonious exchanges between yourself and other councillors.

To help achieve this I would ask that you direct questions that could lead to confrontation through the chair especially those with councillor Gardner.

You have stated that you have no intention of apologising to councillor Gardner and that you don't accept the judgement of the Governance Lawyer.

While I accept that there are irreconcilable differences of opinions between you both this creates problems for the future functioning of the Parish Council as councillor Gardner will not accept what she considers any future abuse and insults. How do you suggest that this can be resolved? I would be interested in your answer.

Both yourself and councillor Gardner have valued contributions to make to the Parish Council and we need to some way of mitigating the differences between you so that we can continue to function as a workable Parish Council. To this end I ask you to work towards achieving an amicable working relationship with all the parish councillors and our newly appointed clerk”.

24. The Subject Member responded as follows: “I have completed the Model Councillor course even though getting a disappointing 57% first time round and an even more disappointing final 43% second time round. I will uphold the Model Councillor course. I will speak to the chair in regards to speaking to Councillor Gardner. With regards to Councillor Gardner that ship has well and truly sailed. I will be civil by communicating to the chair when it comes to communicating with Councillor Gardner in the future. We live in a democracy. We have a freedom of speech without it sometimes being taken out of context and making it into something way more serious than what it is! This is a dangerous route that Councillor Gardner is seeking to take. If Councillor Gardner decides to takes such action. I’ll do everything in my power to defend myself. I would have no other alternative but to take legal action. Something I don’t want to do but if forced to I will”.

Decision

25. The Governance Lawyer has decided that local resolution is appropriate in respect of this complaint. The Subject Member should attend a further training course in relation to the Code of Conduct, in particular the provisions relating to respect and to bringing the office of Member and the local authority into disrepute, within 3 months of the date of this Decision Notice.

Reasons for decision

26. The Governance Lawyer has carefully considered the complaints and the information provided by the Complainant, and the response of the Subject Member.

27. The Governance Lawyer notes that Paragraph 3.3 of the Procedure provides that the Monitoring Officer or a person deputising on their behalf will take into account a number of considerations before deciding if a complaint warrants further investigation including “where a complaint is more than 3 months old and there is no good reason for the delay”. In this respect the Governance Lawyer notes that the Complainant submitted her complaint on 17 September, and that many of the Subject Member’s emails which are the subject of this complaint were dated more than 3 months before that date, and in some instances were dated some 5 or 6 months before that date. The

Complainant says she delayed making this complaint as she wanted to wait for the outcome of the complaints made against her, but as she has concerns that the behaviours complained of may be repeated, she then decided to take matters further and make this complaint. The Subject Member on the other hand, says he thought the Parish Councillors had agreed to undertake the “Standards in Public Life” training as a means of moving on from previous disputes, and that whilst he and the other Parish Councillors have moved on, the Complainant has “gone back on her word” by submitting this complaint.

28. The emails complained of dated 13 March, 15 March, 4 April, 29 May, 30 May, and 29 August reflect a period of acrimonious relations between the Subject Member and the Complainant. In terms of the content of those emails, whilst it is necessary to bear in mind that councillors are entitled to express their views in robust terms, and that councillors are expected to have “thicker skins” than members of the public in this respect, the Subject Member is reminded that freedom of expression does not justify speech which amounts to a personal attack. The Governance Lawyer considers if the Subject Member had reflected on the language he used in these emails, he would have realised his conduct was likely to be perceived as falling short of the standard required by the Code of Conduct. The Subject Member is reminded that the standard required by the Code of Conduct applies equally to all forms of interaction, including email exchanges. The Subject Member is reminded that it is good practice to check, and to reflect on language used in an email before sending it, and that the recipient’s perception of language used can often differ from that of the sender.
29. The Governance Lawyer notes the email exchange between the Chair of the Parish Council and the Subject Member on 17 September, and it is apparent that going forward, the Subject Member has agreed to direct questions at Parish Council meetings through the Chair, and to be “civil”. It is unfortunate that the “Standards in Public Life” training did not prove to be a turning point in the relations between the Subject Member and the Complainant. It is clear that for the Parish Council to function effectively, the Subject Member and the Complainant need to arrive at some kind of accommodation, and must do so without delay, and it is to be hoped that the arrangements set out in the email exchange on 17 September prove to be successful. The Chair of the Parish Council is of the view that both the Subject Member and the Complainant have valued contributions to make to the business of the Parish Council, and it is clear that from now on, that is where their focus should lie.
30. The Governance Lawyer has concluded on balance, that this behaviour is unlikely to be perceived as bringing the office of Member and the local authority into disrepute, in that it is unlikely to be perceived as sufficiently serious to damage the reputation of the Subject Member’s office, and the reputation of the Parish Council, as opposed simply to damaging the reputation of the Subject Member.

31. The Governance Lawyer has concluded that local resolution is a proportionate response to these complaints. Therefore, in order to assist the Subject Member with building a respectful working relationship with the Complainant, the Subject Member should attend a further training course in relation to the Code of Conduct, in particular the provisions relating to respect and to bringing the office of Member and the local authority into disrepute, within 3 months of the date of this Decision Notice.

Right of Appeal

32. 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

Signed: *Mark J Turnbull*

Date: 22 October 2024