

East Herts Council Report

Standards Sub Committee

Date of meeting: Thursday 28th November 2024

Report by: Deputy Monitoring Officer

Report title: Determination and decision into a complaint of failure to observe the Code of Conduct- East Herts Councillor David Woollcombe

Ward(s) affected: All

Summary –

It is for the Standards Sub-Committee to:-

Determine the original complaint (and a further complaint alleging a failure to co-operate with the procedure for dealing with that complaint) against East Herts Councillor David Woollcombe which has been referred to them by the Council's Deputy Monitoring Officer under paragraph 5.11 of the East Herts Council Complaints Handling Procedure for matters relating to the Councillors' Code of Conduct ("the Procedure")

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To give their decision on the above complaints regarding Councillor David Woollcombe in accordance with paragraphs 8.19 and 8.20 of the Procedure.

RECOMMENDATIONS FOR STANDARDS SUB COMMITTEE

- a)** That the Standards Sub Committee determine whether or not Councillor David Woollcombe failed to comply with the East Herts Councillor Code of Conduct ("the Code") in respect of the complaint made by the Councillor Vicky Glover Ward.
- b)** That the Standards Sub Committee determine whether or not Councillor David Woollcombe failed to comply with the Code in respect of his failure to engage with an informal resolution to

dispense with the complaint proposed by the Deputy Monitoring Officer.

- c)** That if no failure is found in respect of (A) and/or (B), then case is at an end.
- d)** That if a failure is found in respect of (A) and/or (B), the Standards Sub Committee determines what sanction is appropriate in accordance with paragraphs 8.20 and 9 of the Procedure.

1.0 Proposal(s)

- 1.1 See above

2.0 Background

- 2.1 On the 13th December 2023 the Monitoring Officer received a complaint from Councillor Vicky Glover Ward ("the Complainant") concerning the alleged misconduct of Councillor Woollcombe ("the Councillor"). The matter was assigned to the Deputy Monitoring Officer to consider as part of an Initial Assessment on 5th January 2024. Full details of the complaint are set out in the documents contained in Appendix 1 but summarised below as follows: -
- 2.2 The alleged misconduct concerns an email ("the Email") sent by the Councillor dated 13th December 2024 at 11:35 with the subject heading 'Promoting the Public Meeting Monday 18th Dec. 19.00 @ Community Center: "To Discuss Neale Drive" + the Residents' Video' which was sent to all East Herts Green party councillors at the time and also some officers of East Herts Council and Hertfordshire County Council.
- 2.3 The Complainant alleges that the Email contains unsupported allegations against her, that the language used was disrespectful and patronising and was written in such a way that it sought to damage her standing amongst party members and officers.

2.4 The Complainant considers that the Councillor breached the following part of the Code: -

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

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. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to 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 councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

A full copy of the Code can be found at Appendix 2.

2.5 Specific examples of how the Complainant felt the Councillor had breached the Code is identified in the letter the Deputy Monitoring Officer sent to the Councillor on the 6th February 2024 which can be found at Appendix 1.

- 2.6 Prior to commencing the Initial Assessment under the Procedure, the Deputy Monitoring Officer had to determine whether the Councillor was acting in his official capacity as a councillor when writing and sending the Email.
- 2.7 The Council's approach to dealing with complaints stems from legislation. Section 27(2) of the Localism Act 2011 requires all relevant authorities to adopt a code of conduct "dealing with the conduct that is expected of members ... when they are acting in that capacity". The Council has reiterated this in its own Code. As the Email was sent from the Councillor's East Herts Council email address, was signed off by him as a councillor, and crucially, concerned council/ward councillor business, the Deputy Monitoring Officer was satisfied that the Code was engaged.
- 2.8 The Deputy Monitoring Officer then applied the Standards Complaints Assessment Criteria under Appendix 1 of the Procedure and was satisfied that the Complaint could proceed to the Initial Assessment Stage and carried out the steps contained in paragraph 5.5 and 5.8 of the Procedure. The Procedure is attached at Appendix 3.
- 2.9 After consideration of the Councillor's response (Appendix 1) and having consulted the Independent Person, the Deputy Monitoring Officer made one of the assessment decisions set out under 5.2.2 of the Procedure.
- 2.10 The initial assessment decision of the Deputy Monitoring Officer was that the complaint could be concluded without the need for an investigation and/or referral to a Standards Sub Committee thus:-

Paragraph 5.2.2.2 by taking informal action (including but not limited to mediation, training, apology).

- 2.11 The Deputy Monitoring Officer then wrote to the Councillor on the 26th March 2024 advising him of her decision and the reasons for it. The informal action proposed included an offer

from the Councillor of an unreserved apology, to the Complainant, which he had previously confirmed, in a letter sent via an email on 2nd March 2024, that he would be happy to provide. A copy of that letter is at Appendix 1. The Councillor was asked to procedure a draft apology for review.

2.12 On 30th March 2024 the Councillor responded to the Deputy Monitoring Officer with a draft of the kind of apology he wished to send to the Complaint. The second paragraph of the draft apology says:-

"As you have made this complaint, I do – as I confirmed to the Leader of the Council – make a full and unreserved apology for any offence I have caused you".

2.13 Despite this, the draft apology then appears to reverse the unreserved apology by seeking to justify the contents of the Email. As a result, the Deputy Monitoring Officer, wrote to the Councillor on 10th April 2024 explaining why the draft apology seemed to be entirely inconsistent with the Councillor's apparent preparedness to apologise unreservedly. For that reason, the Deputy Monitoring Officer was unable to accept it as satisfying the terms of the agreement with the Councillor to apologise unreservedly. She notified the Councillor accordingly on 10th April 2024 (Appendix 1).

2.14 The Councillor responded on 15th May 2024 confirming that his draft apology was indeed "considerably qualified" (despite saying on several occasions they would apologise unreservedly i.e. unqualified). A copy of that response is found in Appendix 1. The Councillor then sent a further email to the Deputy Monitoring Officer and the Leader dated 16th May 2024.

2.15 Under paragraph 5.11 of the Procedure, where a Councillor refuses to engage with an informal approach, in this case, by not providing an acceptable apology in the terms agreed, the

Monitoring Officer may reconsider the decision and decide to move the complaint directly to the Standards Sub Committee for the original complaint (and now alleged failure to co-operate) to be determined.

2.16 In terms of the new apparent breach, failure to co-operate, the relevant part of the Code for the Standards Sub Committee to consider is: -

8. Complying with the Code of Conduct

As a Councillor:

8.2 I cooperate with any Code of Conduct investigation and/or determination.

2.17 Paragraph 5.5 of the Procedure contains the following words:

"Failure to co-operate can itself be a breach of the Code, in addition to the original complaint."

3.0 Reason(s)

- 3.1 Referred to the Standards Sub Committee directly for determination in accordance with paragraph 5.11 of the Procedure.
- 3.2 To consider, investigate and dispense with Code of Conduct Complaints under the Localism Act 2011 and to comply with the Council's Complaints Procedure.

4.0 Options

- 4.1 To determine that the Councillor did not fail to comply with the Code and dismiss the complaint under paragraph 8.19.1 of the Procedure.
- 4.2 To determine that the Councillor did fail to comply with the Code. In these circumstances the Chair will inform the

Councillor of this finding and the reasons for it (paragraph 8.19.2 of the Procedure).

- 4.3 Where the Standards Sub Committee concludes the Councillor did fail to comply with the Code, consider what action, if any, it should take. The actions are set out at paragraphs 9.1.1 to 9.1.10 of the Procedure.
- 4.4 To not determine the complaint and subsequent alleged failure to comply. This is NOT RECOMMENDED as the Council is under a legal duty to promote and maintain high standards of conduct. Complaints therefore need to be assessed, considered and concluded in line with the Localism Act 2011 and the Procedure.

5.0 Risks

- 5.1 Appropriate reporting processes and policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

6.0 Implications/Consultations

- 6.1 The Independent Person is consulted on all complaints as is required under the Localism Act 2011 and or under the Procedure

Community Safety

No

Data Protection

Yes – parts of report and appendices contain personal data under GDPR/DPA.

Equalities

No

In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. The contents of this report do not directly impact on equality.

Environmental Sustainability

No - There are no environmental implications to this report.

Financial

No - There are no capital or revenue implications arising from the content of this report. Complaints are dealt with by the Monitoring Officer and Deputy Monitoring Officer, with the potential for some referrals to be made externally should the Procedure indicate that this is appropriate, or because of resource implication within the Service in dealing with it inhouse.

Health and Safety

No

Human Resources

No – The work outlined within the report is within the caseload of the Monitoring Officer. Implications are otherwise touched on under financial implications above.

Human Rights

No

Legal

Yes - The Council has a duty under section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by its Members. Under section 28 of the Act, the authority must adopt a Code dealing with the conduct that is expected of Members when acting in that

capacity. Any alleged failure to comply with the authority's Code must be dealt with under the Procedure.

If the Council receives a complaint of a breach of the Code, it is therefore obliged to follow its Procedure and to do so in a manner that meets the legal duties under the Act. The Standards Sub Committee is the designated Committee for determination of any final complaints if the Councillor concerned refuses to engage with the informal resolution suggested by the Monitoring Officer.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

- 7.1 Appendix 1 – material relating to the complaint
- 7.2 Appendix 2 – the Code
- 7.3 Appendix 3 – the Procedure

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