

Standards Committee

Decision Notice

Dated: 21st August 2015

Member Complaint Reference:	NCC 05/14, NCC 06/14, NCC 07/14
Subject Member:	Cllr G Hill of Berwick upon Tweed Town Council
Subject Member's Representative:	Mr D Bawn, Partner, Gibson & Co. Solicitors
Complainants:	Mr G Jones Ms S Finch
Chairman of Standards Committee:	Mr J Jackson, Independent Chairman
Members of Committee in attendance:	Cllr D Parker (Parish Council representative), Cllr A Tebbutt, Cllr C Homer, Cllr E Armstrong, Cllr C Rawlings (Parish Council representative), Cllr D Buckle (Parish Council representative), Cllr P Kelly, Cllr L Pidcock, Cllr E Burt
Other persons present:	Mrs J Common, Independent Person
Monitoring Officer:	Mr L Henry, Legal Services Manager, Northumberland County Council
Investigating Officer:	Ms C Burrows, Governance Solicitor, Durham County Council
Committee Clerk:	Mrs L Bennett
Date of hearing:	18 th and 19 th August 2015
Place of hearing:	Committee Room 1, County Hall, Morpeth, Northumberland

1. Hearing

On 18th and 19th August 2015, the Standards Committee ('the Committee') of this authority considered complaints from Mr G Jones and Ms S Finch, former Town Clerk of Berwick upon Tweed Town Council concerning the alleged conduct of Councillor Georgina Hill, a member of Berwick upon Tweed Town Council.

2. Summary of complaints

It was alleged:-

- (i) That Councillor Hill disclosed confidential information at a meeting of the Town Council on 23rd September 2013 by disclosing details associated with a "Press and Public Excluded" section of the Council's Finance and Resources Committee meeting of 16th September 2013. It was further alleged that a misleading report was given to a national newspaper about this confidential item.
- (ii) That Councillor Hill was aware that she had disclosed something that she should not have as, during the Finance and Resources Committee on 18th November 2013, the Finance and Resources Committee on 16th December 2013 and the Town Council meeting on 20th January 2014, Councillor Hill attempted to get the minutes of the Finance and Resources Committee meeting of 16th September 2013 changed. It was further alleged that Councillor Hill was pressuring other Councillors to change the minutes of the Finance and Resources Committee meeting of 16th September 2013 to cover up her conduct.
- (iii) That when trying to get the minutes changed, Councillor Hill had both a personal and a prejudicial interest in the confidential matter from 4th October 2013, if not prior to that date, on the basis that Councillor Hill's half sibling Andrew Marshall corresponded with Mr Lord of Arch on 4th October 2013 and offered his services to the Town Council and to Arch.
- (iv) That Councillor Hill may have bombarded officers with correspondence relating to allegations, investigations and formal proceedings some of which was disrespectful, unnecessary and in places appeared to defame the Town Clerk. The Complainant alleged that the amount of correspondence initiated by Councillor Hill may have breached the Code of Conduct in relation to resources being used in accordance with requirements given how much resource appears to have been devoted to Councillor Hill's campaign. Further, it was alleged that an e-mail sent to the Town Clerk was copied to all councillors on 27th September 2013 by Councillor Hill which referred to a grievance and it was alleged that this should have been treated as a confidential staffing matter between Councillor Hill, the Town Clerk and the Staffing Committee. It was alleged that Councillor Hill's repetitive, relentless allegations, requests for investigations, threats if proceedings and campaign against the Town Clerk has exhibited conduct unbecoming of office.
- (v) That Councillor Hill had carried out a sustained attack of the Town Clerk, the Town Council and a number of Town Councillors on Facebook on 29th May 2014. It was alleged that this was an attempt by Councillor Hill to disrupt the Town Council's credibility and the Town Council's capability of fulfilling its obligations to the people of Berwick.
- (vi) That Councillor Hill obtained information from a Town Council Staffing Committee Meeting which she knew to be confidential and placed this information on Social Media.
- (vii) That Councillor Hill, at the Events Committee meeting of the Council on 8th July 2013, declared a personal and prejudicial interest in item 12 (applications for financial assistance, Tweedmouth Feast Crowning and Carnival Committee). It was alleged that Councillor Hill's Register of Interests stated that she has an Appendix B interest but does not show that she had a discloseable pecuniary interest ("DPI") and therefore having stated that she had a DPI Councillor Hill should have registered this

new interest with the Monitoring Officer within 28 days of becoming aware of it and she has not done so.

- (viii) That Councillor Hill dealt with a matter in which she had an interest by liaising with the Council's Finance Officer in relation to the grant for financial assistance for the Tweedmouth Feast agreed by the Council to the Crowning and Carnival Committee of which she is a member.
- (ix) That Councillor Hill had demonstrated in public at Council meetings and on social media that she had no respect for the democratic process or Code of Conduct.
- (x) That Councillor Hill had shown that she had no respect for the Council's Protocol on Bullying and Harassment, or the Council's Protocol on Member/Officer Relations.
- (xi) That Councillor Hill had shown no respect for the Protocol on Communications because articles to the press contain inaccurate and malicious material and she had failed to state that her views are personal and not those of the Council.
- (xii) That Councillor Hill had no respect for the Disciplinary and Grievance Procedure having disclosed confidential details to the press and on social media.
- (xiii) That Councillor Hill showed a lack of respect to her fellow Councillors by a publication on her Facebook page on 27th May 2014.
- (xiv) That Councillor Hill had exhibited bullying behaviour towards the Town Clerk in public at meetings, in correspondence direct with the Clerk and with other members which has amounted to harassment, in the national press and on social media. It was alleged that this bullying behaviour had been demonstrated by Councillor Hill who had:-
 - a. Questioned the validity and status of decisions relating to delegated powers suggesting it had not been properly made.
 - b. Announced publicly at least two meetings that she had approached other Town Councils for advice and information on how they run their Council.
 - c. Maintained that the Town Clerk's notes of the Strategy and Policy Working Group meeting on 4th September 2013 were inaccurate.
 - d. Sent 207 e-mails to the Town Clerk between May to November 2013 inclusive, 27 of which related to the confidential item in the Finance and Resources Committee meeting of 16th September 2013.
- (xv) That Councillor Hill had disclosed private information regarding disciplinary and grievance matters being considered by the Town Council and personal and confidential information about the Town Clerk's sick leave.
- (xvi) That Councillor Hill posted on her Facebook page on 18th June 2014, details from reports by independent investigator Norman Dunn which included an erroneous statement "that a case to answer has been established and that it is sufficiently serious and should progress to a formal disciplinary investigation" when in fact Norman Dunn stated in his report "it is believed there is a possible case to answer". It was alleged that Mr Dunn sent an e-mail on 30th January 2014 stating "this report is to remain confidential throughout the process and I suggest it remains confidential after the process is complete," that he stated within his conclusion that the report should be issued confidentially and that every page within the report is marked "confidential".

3. Relevant paragraph(s) of Berwick upon Tweed Town Council's Code of Conduct

The following is an extract from the relevant provisions of the Code of Conduct:

Preamble - the Code applies whenever you (a) conduct the business of the Council (including the business of your office as an elected Councillor or co-opted member) or (b) act, claim to act or give the impression you are acting as a representative of the Council.

Paragraph 1 - He/ she shall behave in such a way that a reasonable person would regard as respectful.

Paragraph 2 - He/ she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

Paragraph 3 – He/ she shall not behave in a manner which a reasonable person would regard as likely to bring the Council, or his/ her office as a member of the Council, into disrepute.

Paragraph 5 – He/ she shall use the resources of the Council in accordance with its requirements.

Paragraph 6 – He/ she shall not disclose information which is confidential or where disclosure is prohibited by law.

Paragraph 9 – A member shall register with the Monitoring Officer any change to interest or new interests in Appendices A and B within 28 days of becoming aware of it.

Paragraph 15 – Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate (other than an interest in Appendix A), the member:

- a. shall disclose the nature of the interest
- b. may speak on the matter only if members of the public are also allowed to speak at the meeting
- c. shall not vote on the matter.

If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

Paragraph 16 – If a Council function can be discharged by the member acting alone, and he/ she is aware that they have an interest in Appendices A or B, he/ she shall not deal with that matter except to enable the matter to be dealt with by someone else.

4. Summary of evidence considered by the Committee

Evidence was considered from the following sources:-

- (i) Investigating Officer's Report dated 13th March 2015
- (ii) Bundle of documents supplementary to Investigating Officer's Report
- (iii) Witness statements of:
 - Cllr G Hill
 - Mr B Darling
 - Cllr T Forrester
 - Cllr C Seymour
 - Mr A Marshall
 - Mr D Spencer-Barclay
 - Cllr K Graham

- Mr N Dunn
- (iv) Witness summaries of:
- Ms S Finch
 - Mr G Jones
- (v) Verbal evidence of:
- Ms S Finch
 - Mr G Jones
 - Cllr C Seymour
 - Mr B Darling
 - Cllr K Graham
 - Mr A Marshall
 - Cllr T Forrester
 - Mr D Spencer-Barclay
 - Cllr G Hill

In addition to the evidence considered by the Committee oral representations were made by both Councillor Hill's representative and the Investigating Officer

5. Committee's principal findings of fact including the reasons for them

- (i) In respect of the publications by Councillor Hill on Facebook contained in screen dumps dated 29th May 2014 and 18th June 2014, the Committee finds that Councillor Hill did allude to the Town Clerk's grievance, the Town Clerk's sick leave, provided extracts of the confidential report of Mr Dunn's investigation into Councillor Hill's complaint, gave details relating to disciplinary and grievance matters being considered by the Council relating to the Town Clerk and raised issues regarding the Town Clerk's performance and that the information contained in those postings had been obtained by Councillor Hill in confidence in connection with her duties as a Town Councillor.
- (ii) Again in respect of publications by Councillor Hill on Facebook, the Committee finds that Councillor Hill likened the Council to North Korea in her comments on 27th March 2014 and referred to fellow councillors as "rogue" and "manipulated" in her comments on 29th May 2014.
- (iii) That Councillor Hill commented in the Independent on Sunday on 5th January 2014 alluding to corruption within the Council by stating "What is quite often happening in town councils is a town clerk and a civil servant making decisions without the necessary checks and balances that you used to have. There is some extreme low-level corruption going on and people getting away with making decisions behind closed doors that you would never get away with in Parliament."
- (iv) That Councillor Hill was not responsible for the comment on the Berwick Town Council Public Voice Facebook page on 28th May 2014 saying "What would the public think if the police and the fraud squad made a visit to our Town Council" accepting her evidence in this regard that she was not responsible for, or in control of, that particular Facebook page.
- (v) That there was insufficient evidence to definitively determine that there was collusion between other Town Councillors and/or Ms Finch or behaviour which might be considered to constitute bullying of Councillor Hill from those same Town Councillors and/or Ms Finch designed to suppress the actions of Councillor Hill in carrying out her duties as a Town Councillor. There may have been differences of opinion, forcibly expressed at times perhaps in what may have been a difficult environment for the Subject Member, but nothing that would suggest collusion and/or bullying.

- (vi) That there was insufficient evidence to definitively determine that Ms Finch's conduct or behaviour and performance in carrying out her duties as Town Clerk was of a nature that could be considered to be unacceptable to a reasonable employer.
- (vii) That the reports commissioned by the Town Council from Mr N Dunn and Mr P Cameron were of an independent and objective nature and raised no issues of bias.
- (viii) The Committee were invited by the Investigating Officer to make a finding of fact as to whether Ms Finch gave an apology to Mr A Marshall with regard to a remark she made in a meeting with him but the Committee concluded that there was no conclusive evidence either way on this issue and determined that they would not make any finding regarding the issue which, in any event, they did not consider to be of any direct significant relevance to their consideration of the totality of the complaints.

6. Committee's findings as to whether the Subject Member failed to follow the Code including reasons for that finding

A. The Committee finds that the Subject Member has failed to comply with the following paragraphs of Berwick upon Tweed Town Council Members' Code of Conduct:-

- (i) Paragraph 1
- (ii) Paragraph 2
- (iii) Paragraph 3
- (iv) Paragraph 6

B. The Committee finds that the Subject Member has **not** failed to comply with the following paragraphs of Berwick upon Tweed Town Council Members' Code of Conduct:-

- (i) Paragraph 5
- (ii) Paragraph 9
- (iii) Paragraph 15
- (iv) Paragraph 16

The detail and reasons for those findings are as follows:-

- (a) That at all relevant times during the course of events referred to in the summary of allegations above, the Subject Member had been acting in her official capacity including when she gave the interview to the Independent on Sunday newspaper when she ought reasonably have known that it was likely that a member of public reading the newspaper article would have considered that she was acting in her capacity as a Councillor. As a consequence her authority's Code of Conduct had applied to her at those times.
- (b) That the Subject Member failed to treat the former Town Clerk, Ms Finch, with respect contrary to paragraph 1 of the Berwick upon Tweed Town Council Members' Code of Conduct in relation to her publications on Facebook evidenced in the screen dumps dated 29th May 2014 and 18th June 2014 and her comments in the Independent on Sunday on 5th January 2014 as detailed in the Committee's findings of fact.

The Committee agreed with the reasoning in this regard provided by the Investigating

Officer in paragraph 6.4 of her report and, while concluding that there had perhaps been something of a delay on the part of the Town Council in dealing with the Subject Member's concerns, the Committee felt that the authority had nonetheless commissioned the reports from Mr Dunn and Mr Cameron and they considered it unnecessary and unreasonable on the part of the Subject Member to take the actions that she took before those reports could be fully considered by the Town Council.

With regard to the interview given by the Subject Member to the Independent on Sunday newspaper, the Committee considered that the Subject Member's comments as reported could reasonably have been interpreted as implying that the former Town Clerk was corrupt, an allegation which had, the Subject Member conceded in evidence to the Committee, no foundation. The Committee agreed with the Investigating Officer that this was an attack on the former Town Clerk's integrity. While the Committee did accept that the Subject Member might have meant to refer to another local council in the context of these comments they considered that she should have appreciated that it was likely that, given her position, they would be interpreted as referring also to the situation at Berwick.

- (c) That the Subject Member bullied the former Town Clerk, Ms Finch, contrary to paragraph 2 of the Berwick upon Tweed Town Council Members' Code of Conduct in relation to her behaviour towards Ms Finch which included publications on Facebook evidenced in the screen dumps dated 29th May 2014 and 18th June 2014 forming a pattern of public criticism which constitutes bullying and harassment.

The Committee again agreed with the reasoning as outlined by the Investigating Officer in her report at paragraph 6.5 in this regard and also felt that the postings were designed to undermine the former Town Clerk's position and would have put her in fear of what further postings regarding her might follow, all of which were sufficient to enable the Committee to conclude that the former Town Clerk had been bullied by the Subject Member.

Having made a finding of fact that that there was insufficient evidence to definitively determine behaviour on the part of other Town Councillors and/or Ms Finch which might be considered to constitute bullying of the Subject Member by those persons the Committee could, it felt, not find otherwise.

- (d) That the Subject Member conducted herself in a manner which could reasonably be regarded as bringing her Office and her authority into disrepute contrary to paragraph 3 of the Berwick upon Tweed Town Council Members' Code of Conduct by virtue of the Facebook posts made on 27th March 2014 likening the Town Council to North Korea and on the 29th May 2014 with regards to "rogue" Councillors, and her comments as reported in the Independent on Sunday on 5th January 2014.

The reasoning of the Investigating Officer in her report at paragraph 6.6 was again accepted by the Committee in this regard with the exception of the Facebook comment made on the 28th May 2014 which the Committee accepts was not proven as being made by the Subject Member.

While the Committee accept that Article 10 of the Human Rights Act 1998 does give a high level of protection to comments that are genuinely made in the course of political debate, they felt that the comments made by the Subject Member, and particularly those in the Independent on Sunday, were entirely inappropriate and a slur on the reputation of the Town Council and an unjustified attack on the integrity of those persons directly associated with the authority including members and officers.

- (e) That the Subject Member disclosed confidential information which was exempt information as defined by Schedule 12A of the Local Government Act 1972 contrary to paragraph 6 of the Berwick Town Council Members' Code of Conduct.

The Committee finds that Councillor Hill's disclosures on Facebook evidenced in the screen dumps dated 29th May 2014 and 18th June 2014, details of which are given in the Committee's findings of fact, were not of sufficient public interest that disclosure of the information outweighed the public interest in maintaining the exemption.

The Subject Member had conceded in evidence to the Committee that she had disclosed this information in the manner described and that it was of a confidential nature but that she was justified in doing so as she was afforded the protection of the Whistleblowing Policy adopted by the Town Council. The Committee took her arguments, and those advanced on her behalf by her representative into account in reaching their decision but concluded, nonetheless, that she could not legitimately claim protection under the Policy as they did not believe that the disclosures were reasonable in all the circumstances. The information disclosed was extensive and little or no thought appeared to have been given as to what the consequences of such disclosures would be, particularly in relation to the personal information relating to the former Town Clerk which the Committee considered to be of most importance given that person's status as an employee of the Town Council.

In any event the Committee did not consider that any of the three pre-conditions in order to seek protection under the Policy had been met for the Policy to be applicable.

In this latter regard, the Committee did not consider that the Subject Member's perception that she would be victimised if she raised the matter internally was a realistic one given their finding of fact in relation to the allegation from the Subject Member of collusion and bullying on the part of the other Town Councillors and/or the former Town Clerk. With regard to the other two pre-conditions there was a process with an independent input underway which, while delayed, had not been concluded which appeared to counter any suggestion that there was a reasonable belief on the part of the Subject Member that a cover up was likely or that she had already conclusively raised the matter internally.

- (f) That the Subject Member did not use Council resources beyond its requirements contrary to paragraph 5 of the Berwick upon Tweed Town Council Members' Code of Conduct as a result of responding to the matters raised by her.

The Committee fully accept the reasoning of the Investigating Officer at paragraph 6.7 of her report in this regard.

- (g) That the Subject Member did not fail to register with the Monitoring Officer any change of interests or new interests in Appendices A and B within 28 days of becoming aware of this contrary to paragraph 9 of the Berwick upon Tweed Town Council Members' Code of Conduct in respect of her alleged failure to register her role as a committee member of Tweedmouth Feast and Crowning Carnival Committee as a discloseable personal interest.

The Committee fully accept the reasoning of the Investigating Officer at paragraph 6.9 of her report in this regard.

- (h) That the Subject Member did not fail to comply with the provisions of paragraph 15 of the Berwick Town Council Members' Code of Conduct in relation to her participation in a matter relating to her half-brother, Mr A Marshall.

The Committee fully accept the reasoning of the Investigating Officer at paragraph 6.10 of her report in this regard.

- (i) That the Subject Member did not deal with a matter in which she was aware that she had an interest as outlined in Appendices A and B of the Code when liaising with the Council's Finance Officer in relation to the grant for financial assistance for the Tweed Mouth Feast contrary to paragraph 16 of the Berwick Town Council Members' Code of Conduct.

The Committee fully accept the reasoning of the Investigating Officer at paragraph 6.11 of her report in this regard.

7. Action to be taken/ sanctions to be imposed

The Committee, having heard from the Subject Member's representative, the Investigating Officer and the Independent Person on the issue resolved to impose the following sanctions:-

- (i) That it be recommended to Berwick upon Tweed Town Council that the Subject Member be issued with a formal censure by that authority.
- (ii) That it be recommended to Berwick upon Tweed Town Council that the Subject Member be removed, and remain removed, from any position she currently holds as Chair or Vice Chair of all Committees and Sub Committees of that authority for a period of twelve months from the date of that authority agreeing any such sanction.
- (iii) That it be recommended to Berwick upon Tweed Town Council that training be arranged for the Subject Member which shall include training in relation to the Members' Code of Conduct and Bullying and Harassment.
- (iv) That the findings of the Committee be referred to Berwick upon Tweed Town Council for their information.

Recommendations to the Subject Member's Authority

The Committee, having heard from the Independent Person on the issue, resolved to make the following recommendation:-

- (i) That it be recommended to Berwick upon Tweed Town Council that training be arranged for all members of the authority in relation to the Members' Code of Conduct and Bullying and Harassment.

Right of Appeal

There is no right of appeal from this decision which is final.

Mr J Jackson
Chairman
21st August 2015