



## **DECISION NOTICE**

### **STANDARDS HEARING PANEL**

### **COM 322 - COM324 and 364**

Subject Member: Councillor Pete Molloy

Panel Members: Councillor Joan Nicholson (Chair), Councillor Lesley Mavin,  
Councillor Chris Varty

Independent Person: Alan Fletcher

#### **Preliminary Information**

1. Councillor Pete Molloy was elected to Spennymoor Town Council in May 2019. As a member, he is expected to behave in accordance with the Town Council's Member Code of Conduct.
2. On 5 January 2021 the Monitoring Officer acknowledged receipt of two Code of Conduct complaints from two officers of the Town Council (COM 322 and COM 324). A complaint was also received from the Town Council (COM 323), the allegations within the complaint largely mirrored those raised by the officers of the Town Council.
3. On 13 May 2021, the complaints were referred for investigation which was undertaken by Mr Matt Lewin (the Investigating Officer).
4. Given the overlap between the COM 323 and the two personal complaints COM 322 and COM 324, the Investigating Officer consolidated COM 323 as part of the consideration of the complaints from officers.
5. The Monitoring Officer received a Code of Conduct complaint from a member of the public dated 13 July 2021 relating to posts made on social media by Councillor Pete Molloy during his time as a Spennymoor Town Councillor (COM 364).
6. On 13 August 2021, the complaint was referred for investigation and Mr Matt Lewin was appointed as the Investigating Officer. Another matter was also referred for investigation, specifically COM 360 however following an investigation, it was determined that the outcome for the complaint was no

further action and this was recorded in a decision notice dated 21 October 2021.

#### **COM 322 – 324**

7. COM 322 in summary relates to a complaint submitted by an officer of the Council about a comment made by Councillor Molloy in a workshop meeting of the Council, and a subsequent post Councillor Molloy published on Facebook, suggesting that the officers post should be gotten rid of.
8. COM 324 in summary relates to a complaint made by another officer of the Council, alleging that Councillor Molloy bullied her and made an unfounded accusation on Facebook that she had conspired to make a false allegation of bullying against him.
9. The allegations relate to whether:
  - a. the Councillor Molloy breached the Code by making false and unfounded complaints about the officer.
  - b. a Facebook post on 4 December 2020 constitutes a breach of the Code.
10. COM 323, is a complaint presented by the Town Council which repeats the allegations regarding the conduct of Councillor Molloy towards the two officers.

#### **COM 364**

11. This complaint was presented by a member of the public concerning a large number of Facebook posts published by Councillor Molloy said to express “racist views, religious discrimination and sexual orientation discrimination.”
12. A number of the posts were published prior to Councillor Molloy taking office. The Code of Conduct only applies where a Councillor is acting in their official capacity. As Councillor Molloy was first elected to Spennymoor Town Council in May 2019, the posts made prior to taking office are outside the scope of Code of Conduct complaints and therefore only posts published after the election are considered within this procedure.

#### **The Code of Conduct for Spennymoor Town Council**

13. The relevant paragraphs of the Member Code of Conduct for Spennymoor Town Council are set out below.
14. In respect of COM 322 - COM324:
  1. he/she shall behave in such a way that a reasonable person would regard as respectful at all times, and not bring the Town Council or their office into disrepute.
  2. he/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

5. he/she shall not share, discuss or disclose information to others which is confidential or where disclosure is prohibited by law
15. The Code of conduct was updated in July 2021 and the corresponding paragraphs of the current Member Code of Conduct are paragraphs (j), (l) and (m).
16. In respect of COM 364:
  - (j) Always treat people with respect, including the organisations and public they engage with and work alongside;
  - (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.

## **Investigation**

### **COM 322**

17. The Investigating Officer recorded that the circumstances of any individual's employment are both private and sensitive and, in particular, termination of an individual's employment should never be discussed in such a casual and public way.
18. The Investigating Officer found that the statements of the Member breached paragraph 3.1, failure to behave in such a way that a reasonable person would regard as respectful and bringing the Council into disrepute, of the Code. Additionally, the Investigating Officer found that the two statements breached paragraph 3.2, acting in a way which a reasonable person would regard as bullying, of the Code.

### **COM 324**

19. The Investigating Officer found that both the statements and post on Facebook of 4 December 2020 constitute political speech and attract enhanced protection under the law. The Investigating Officer highlights that the right of freedom of expression is not absolute; it may lawfully be restricted where there is a justification for doing so.
20. In conclusion of the investigation, the Investigating Officer made the following findings:
  - a. Councillor Molloy did not breach of the Code in respect of the complaints by Councillor Molloy relating to the officer, this is recorded with reasons at paragraphs 44 to 46 of the report.
  - b. Councillor Molloy did breach the Code, in respect of the Facebook post dated 4 December 2020, namely:
    - paragraph 3.1, failure to behave in such a way that a reasonable person would regard as respectful and bringing the Council into disrepute, of the Code.

- paragraph 3.2, acting in a way which a reasonable person would regard as bullying, of the Code.

#### COM 364

21. The Investigating Officer considered that the posts were made in an official capacity and that these posts are in breach of the Code, specifically that the posts express Islamophobic and racist views.
22. The conclusion of the Investigating Officer was that there had been a breach paragraph 2.4 (j) of the Code, namely Councillor Molloy failed to show respect to others.

#### **Hearing to be in public or private**

23. The Monitoring Officer advised the Panel of the considerations and confirmed that the complainants had indicated a preference for the matter to be considered in public.
24. The Panel invited views of Investigating Officer who confirmed that on balance his view was that the matters could be considered in public with caution to be exercised regarding employment matters as set out by the Monitoring Officer. Councillor Molloy confirmed that he did not have a preference as to whether the matter should be considered in public and the Independent Person confirmed that the complaints should be considered in public.
25. The Panel decided to hold the Hearing in public and the reported were made available for publication.

#### **Investigating Officers Report**

26. The Chair invited the Investigating Officer to present his report and address the issue of whether there had been a breach of the Code of Conduct in respect of the complaints.
27. The Investigating Officer directed the Panel to his report and summarised his investigation and findings. In accordance with the Councils Local Determination Procedure the Chair invited questions of the Investigating Officer. There were no questions from the Panel or the Independent Person.
28. The Member sought clarification on two points, specifically in relation to the Complaint from the Council (COM 323), that this was limited only to the data protection matter and the other points raised were not requested by the Council and secondly to provide clarification on the interview with Councillor Geldard. The Investigating Officer confirmed that the Council had referred only the data protection matter. In respect of the interview with Councillor Geldard, the Investigating Officer confirmed that following receipt of the draft report, the Member asked if Councillor Geldard had been interviewed, at that point he had not. However on review of the response

from the draft report, the Investigating Officer did interview Councillor Geldard which is what is recorded in the final decision notice.

### **Member Response to Complaints**

29. Councillor Molloy was invited by the Chair to give his response in respect of the complaints. Councillor Molloy confirmed that he disagreed with the findings of the Investigating Officer. He has two Facebook pages and he accepted that he shared posts between the pages but this is as a private individual, not acting in an official capacity. If there was only one page then this would be a grey area however as there are two pages there is one for Council and one private. Councillor Molloy confirmed to the Panel that they need to establish whether he was acting in an official capacity.
30. In relation to the details of the posts, Councillor Molloy confirmed that this is his opinion, others have different opinions and he respects that. In respect of white supremacy Councillor Molloy stated that he shared a headline which he could have done from any other source. He agreed with the headline. This one was relating to economic migration and which is a numbers factor not race. Councillor Molloy denied that he has been racist, he does not consider one race superior to others and gave an example of when he had helped a business in the community. Councillor Molloy considered that he does his best for the community.
31. In relation to COM 322, Councillor Molloy had thought that this was the appropriate forum to raise his concerns regarding public spending. Councillor Molloy stated that there are not many meetings where members get together to share ideas outside of the formal meetings. Councillor Molloy had concerns regarding public spending and he raised this, he did not recall Councillor Geldard warning him at the meeting regarding his comments. For the post on Facebook in relation to this, this was his way of following up with the residents, to inform them of what has happened and issues he has raised. Councillor Molloy confirmed that on reflection He stated that the post was reckless but it was not his intention to bully.
32. For COM 323, Councillor Molloy had already made representations on this point in the questions to the Investigating Officer. In short, Councillor Molloy considered that this complaint related to a data breach only and that the officer added extra information to add weight to her complaint.
33. Councillor Molloy, when addressing COM 324 accepted that there had been a similar but not the same situation about 18 months earlier. Last time he initiated the post, this was on Facebook but that is where the similarities end. This time, Councillor Molloy considered that he was defending himself, it was not his intention to bully the officer. After the first code of conduct complaint (COM263) he has tried to adhere and think of wording before putting post up. Councillor Molloy made the representation to the Panel that the time frame is relevant, there has been 18 months between the complaints which he does not consider course of conduct to be bullying. It

was reckless, he accepted that he should not have been so quick to respond.

34. Councillor Molloy in summary stated that he had been targeted unreasonably and he presented a summary of the complaints he had received. Councillor Molloy stated he had tried his best for the people of the town. He has tried to raise issues internally but this has not been progressed which contributed to him putting the post up. Councillor Molloy stated that it was no excuse and this was a reckless action on his part. Councillor Molloy has never intended to bully any of the officers.
35. The Panel invited the witnesses for Councillor Molloy to address them. Councillor McAloon in support of Councillor Molloy confirmed that he stands by his statement presented to the Panel. Councillor McAloon acknowledged that Councillor Molloy does come out with odd things but he is not a bad Councillor and people should be more thick skinned. Councillor Clive Maddison, confirmed that he does not agree with comments. He has known Councillor Molloy for 15 years and has never known him to be a racist. He is a good Councillor, he asks questions. Councillor Maddison made the observation that anyone who asks a question is threatened with standards board, this is costing the Council a fortune it is dragging the name of the Council through the mud.

### **Representations from the Independent Person**

36. The Chair invited views from the Independent Person on whether he considered there had been a breach of the Code of Conduct. The Independent Person confirmed that he concurred with the findings of the Investigating Officer but also noted that Councillor Molloy works hard for residents, is committed to his role however he may have much to learn as a relatively new member.

### **Decision on whether there had been a breach of the Code of Conduct**

37. The Panel reached its findings in respect of the complaints. The Panel considered only the papers before them and the representations made in reaching its conclusions.

### **COM 364**

38. The Panel considered the Committee in Standards in Public life guidance on official capacity and agreed that the Member was acting in his official capacity.
39. The three posts which were said to express Islamophobic views and similarly the posts which are reported to be racist, the Panel determined that these were not protected under Article 10 Freedom of Expression for the reasons set out in the Norwood case. The Panel noted that the Member stated that sharing a post does not mean he necessarily supports its content, however it is the sharing of the message that than the belief in it that was relevant to the Panel.

40. The Panel upheld the Investigating Officers finds that the posts breached paragraph 2.4 (j) of the Code of Conduct.

#### **COM 322**

41. The Panel agreed that the formal complaints submitted by the Member against the officer did not amount to a breach of the Code. Members should be able to raise complaints or concerns in respect of Officers following appropriate procedures.
42. The Panel found that the Facebook post dated 4 December 2020 amounted to unacceptable public criticism of the Clerk, he could have defended his position without referring to the Clerk. The Panel noted that the Member had acknowledged that the post was “reckless” although he did not consider it to be or intend it to be bullying.
43. When considering COM 322 together with COM 263, this demonstrates a pattern of behaviour that amounts to bullying. The earlier decision notice and clearly warned that a repetition of such conduct might amount to a pattern of behaviour.
44. The Panel upheld the Investigation Officers recommendation that the Councillor Molloy breached paragraph 3.1 and 3.2 of the Code.

#### **COM 324**

45. The Panel found it inappropriate to single out a particular officer’s role when suggesting the opportunity to make savings, particularly when there was no immediate requirement for savings to be made. This could have been raised as a review of staffing costs as a whole without identifying an individual. The Panel were satisfied that a warning had been issued by Councillor Geldard regarding the appropriateness of the comment made by the Member at the meeting. From this the Panel considered that the Member ought to have been aware that it was not appropriate to suggest very publicly on that the Council could operate without this post. The Panel noted that the Member accepted that this was reckless and not his intention to bully the Officer. However this did not serve as justification for repeating the suggestion to single out an individual on a public forum. There was no regard for the impact that such a post would have on the Officer.
46. The Panel completed that the statement amount to a failure to treat the FM with reasoned and brought the Council in to disrepute in breach of paragraph 3.1 of the Code. The Panel also found that in making the statements the Member was acting in a way which a reasonable person would regard as bullying.

#### **COM 323**

47. The Panel accepts that the report before the Council related to an alleged data breach, specifically the sharing of an internal email to Facebook. The investigation has not focused on the alleged data breach and the Panel made no findings in respect of this complaint.
48. The Panel did note that Councillor Molloy is a dedicated Councillor who tries to do the best for his community and residents. If he has concerns or proposals to raise in the future, the Panel would encourage him to do this via the appropriate channels rather than social media.

### **Sanction**

49. In accordance with the Council's Local Determination Procedure the Standards Committee Panel invited representations from the Investigating Officer, the Member and the Independent Person as to whether action should be taken and if so what form the action should take.
50. The Member confirmed that he would be prepared to participate in mediation if this was something that the Panel were minded to recommend.
51. The Panel recommended the following sanctions:
  - The Member to give a written apology to the Clerk and Facilities Manager with a copy to be provided to the Monitoring Officer within 14 days.
  - Subject to the agreement of the relevant Town Council Officers, the Panel recommends mediation and that the Monitoring Officer facilitates this within three months of the hearing.
  - The Member undertakes training on the Code of Conduct, Member officer relations and Equality and Diversity within three months of the hearing.

### **Right of Appeal**

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

*J. Nicolson*

Councillor Joan Nicholson  
Chair of the Standards Committee Hearing Panel

Dated 08 December 2021