

# **DECISION NOTICE:**

## **Standards Hearing Panel**

### **COM 418**

Subject Member: Councillor Paul Sexton

Panel Members: Councillor Kathryn Rooney (Vice Chair), Councillor Chris Varty and Councillor Anita Savory.

Independent person: Alan Fletcher

#### **Preliminary Information**

1. Councillor Paul Sexton is an elected member to Durham County Council and an elected member to Waldrige Parish Council. As a County Council and Parish Council member he is expected to behave in accordance with both the Durham County Council Code of Conduct for members and the Waldrige Parish Council Code of Conduct for members.
2. On 24 April 2023 the Monitoring Officer acknowledged receipt of a Code of Conduct complaint (COM 418) from a member of the public. The allegations related to the Member's conduct and alleged that he had bullied, intimidated and threatened the Complainant's daughter.
3. A decision notice dated 26 July 2023 was issued determining that the matter be referred to the Standards Committee for a Hearing.

#### **COM 418**

4. COM 418 in summary relates to a complaint submitted by a member of the public which alleges that Cllr Sexton bullied, intimidated, and threatened his daughter.

#### **The Codes of Conduct for Waldrige Parish Council and Durham County Council**

5. The relevant provisions of the Member Codes of Conduct for Waldrige Parish Council and Durham County Council are set out below:
  - Deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially (Durham County Council);

- Always treat people with respect (Durham County Council)
- Behave in such a way that a reasonable person would regard as respectful (Waldrige Parish Council);
- Not to bully or harass any person (Durham County Council);
- Not act in a way which a reasonable person would regard as bullying or intimidatory (Waldrige Parish Council);
- 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 (Durham County Council);
- Not behave in a manner which a reasonable person would regard as likely to bring the Council, or his office as a member of the Council, into disrepute (Waldrige Parish Council);
- Not seek to improperly confer an advantage or disadvantage on any person (Waldrige Parish Council).

### **Outcome of the Decision Notice**

6. The Governance Lawyer found that Cllr Sexton had engaged the Code of Conduct for members. The Governance Lawyer did not consider that the complaint was suitable for no further action or informal resolution.
7. The Governance Lawyer found that if the allegations were to be accepted, they are of a serious nature. The Governance Lawyer was of the opinion that a Standards Committee Hearing Panel should be convened to consider the complaint and consider whether Cllr Sexton had breached the provisions of the Codes set out above.

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

8. The Panel invited the views of the Governance Lawyer who confirmed that she had no objection to the matter being heard in public. The Governance Lawyer stated that all individuals concerned are all known to the complainant or witnesses and the subject member. The complainant had also provided consent to the videos being shown in public. The Governance Lawyer stated that it was a matter for Councillor Sexton to determine if he wanted the videos that he had provided of his home address to be shown. The Governance Lawyer noted that there was some earlier correspondence from Cllr Sexton that videos should be excluded completely as he had not consented to the footage being taken, however the Governance Lawyer did not consider consent to be an issue. The Governance Lawyer concluded that there is a specific exemption in the Data Protection Act for the Monitoring Officer to process personal data for the purposes of fulfilling their statutory function in upholding standards.

9. Cllr Sexton indicated that within earlier correspondence he was told that people are allowed to record people without consent. He stated the video call was initiated by him but that he had meant to press telephone not video call but understood that was not relevant. Cllr Sexton confirmed that he would accept the Governance Lawyer's submissions but that the Information Commissioner's Office confirms that you can record but cannot share the recording without permission. Councillor Sexton stated that the complainant had been trolling him on social media since the issue and that he will prove that the complainant has made false claims. Cllr Sexton stated that he suspected after the hearing that the complainant could use the videos in anger and that he never agreed for the videos to be used.
10. The Independent Person was of the view that the matter should be heard in public.
11. The Panel determined to hold the Hearing in public and the relevant documents were made available for publication.

### **Governance Lawyer's Decision Notice**

12. The Chair invited the Governance Lawyer to present her Decision Notice findings and address the issue of whether there had been breaches of the Codes of Conduct in respect of COM 418.
13. The Governance Lawyer directed the Panel to her Decision Notice and summarised the evidence and her findings. The Governance Lawyer explained that there were two incidents which were a preamble to the video call between the complainant's daughter and Cllr Sexton. The first was an incident which occurred on the Millennium Green between the complainant's son-in-law and Cllr Sexton of which there is a video recording. The second related to a further incident between Cllr Sexton and the complainant's son-in law of which there was no video footage.
14. Two of the videos provided by the complainant were played to the Panel at their request.
15. In accordance with the Council's Local Determination Procedure the Chair invited questions of the Investigating Officer. The Independent Person asked whether or not there was any evidence of the dog ever fouling to which the Governance Lawyer stated that there was none shown in the video evidence. Cllr Sexton sought clarification on the dates of video footage. There were no questions from the Panel.

### **Member Response to Complaint COM 418**

16. Councillor Sexton was invited by the Chair to give his response in respect of the complaint.
17. Cllr Sexton first explained the layout of the Millennium Green. He also explained that there was a lot of data going around and that the first video

showed only part of a full conversation. Cllr Sexton explained that they have experienced a lot of issues with dog fouling on the Millennium Green including one incident where a young lady had to take her child home with it on her face. Cllr Sexton explained that there is a lot of pressure to stop antisocial behaviour.

18. With regards to the first incident between himself and the complainant's son-in-law, Cllr Sexton explained that he watched a young man with his hood up and earphones in looking at what appeared to be an iPad and thought nothing of it. About 30 seconds later a dog came past Cllr Sexton which he thought was a stray dog. He then walked on to the Millennium Green and saw the gentleman no where near the dog with his headphones in and asked himself whether it was his dog. Cllr Sexton stated that he then asked '*excuse me is this your dog?*' and that the gentleman replied, '*what the f\*\*\* has it got to do with you?*'. Cllr Sexton stated that he explained that he was entitled to ask, and he confirmed that he was a Councillor as he thought it would carry some weight. He stated that the PSPO (Public Space Protection Order) references people in positions of authority. He stated that the gentleman was recording him which he found to be provocative and that whilst he accepted that he was held to a higher standard he had been sworn at. He stated that he thought there were a lot of emotive statements from the complainant and that he had been economical with the truth. Cllr Sexton's view is that they have been said to cause damage to him.
19. Turning to the second video, Cllr Sexton stated that this video was not the full conversation. Cllr Sexton claimed that the Parish Council had already made a decision regarding Lauren's dog show due to complaints from residents around dog fouling following the event. He stated that a statement he produced from a former Parish Councillor alludes to this. Cllr Sexton explained he understands that people say that he should not challenge people in his capacity as a Councillor but that he had met with a warden (on a different matter) a few weeks prior and asked for their view on what to do if someone's dog was out of sight. He stated that the warden confirmed he would class that dog as being out of control and would ask the person to put a dog on the lead and if the issue persisted, he would then issue a Fixed Penalty Notice. The warden further explained that he would expect the public to challenge anyone doing this and if they did not feel comfortable doing so to speak to a local Councillor.
20. Cllr Sexton explained that the second video was him being reactive and he acknowledges this. Cllr Sexton stated that there had been an opportunity to shake hands and move on which he had been happy to do. He stated that he has been goaded for 7 months and that he bumped into the complainant's son-in-law on the Millennium Green the day prior to the Hearing, and they had a conversation and he stated that he was terrified of Cllr Sexton. Cllr Sexton asked him if he was attending the hearing and he responded that he did not know what he was talking about. Cllr Sexton claimed that the complainant's son-in-law acknowledges that every time

he sees him, he videos him as he is worried that Cllr Sexton will do or say something.

21. With regards to the incident at the shop Costcutters Cllr Sexton stated that he had a long day and as he was pulling right (in his car) out of the junction near Costcutters he looked and saw the complainant's son-in-law holding a mobile phone who then said, '*aw not f\*\*\*\*\* you*'. Cllr Sexton explained that he had had enough of the behaviour and so rang the owner of Costcutters to ask about the CCTV and whether it had captured the incident. Cllr Sexton stated he felt harassed and that he would see the complainant's son-in-law 2 or 3 times a week on the Millennium Green, he stated if he was going to accost him why would he do it under CCTV. He said he asked the shop owner to look at the CCTV when he had a moment and see if he can see anything, the shop owner rang Cllr Sexton 30 minutes later and said you can see someone raise a phone and then come into the shop. The shop owner said he recognised the person in the video and told Cllr Sexton who it was. He said he then realised he knew who his parents were, and they were good people, so Cllr Sexton wanted to shake hands and move on. Cllr Sexton does not consider that the complainant's son-in-law is terrified of him. He said he found it odd that the day before the hearing he changed his route on the Millennium GREEN.
22. With regards to the second video, Cllr Sexton stated to the Panel it was their judgment as to whether he had done right or wrong. Cllr Sexton said he didn't believe that the complainant's daughter was so distressed that she couldn't open up her business. Cllr Sexton confirmed that the witness evidence from the former Parish Councillor confirmed that she went to the complainant's daughter's shop to get her dog groomed. The witness confirmed that she was told that the complaint's daughter was not in that day as she had an appointment elsewhere as she was looking to expand her business, it was therefore not true that she was not there because she was too distressed. Cllr Sexton considered that the complainant was emotive with the truth. Cllr Sexton stated that if the conclusion is that bullying and threatening behaviour has occurred, he never intended to bully someone, he had a discussion but in hindsight he wishes he had not made the call and he only did so to confirm the decision regarding the dog show. He said it wasn't a formal decision as the Parish Council hadn't yet met to consider it but he had rung round the Parish Councillors and therefore knew what their views were on holding the show again. Cllr Sexton confirmed that if a repeat of the show had been welcomed he would have added it on the agenda. Cllr Sexton confirmed that the Standing Orders of the Parish Council allow him as chair to add items to the agenda but that he decided not to add the dog show to the agenda as the Councillors were not willing to allow it to happen again.
23. The Senior Lawyer (Commercial and Corporate Governance) read out the statement provided by the shop owner.

24. Cllr Sexton stated that the complainant has made a lot of assumptions that are wrong. Cllr Sexton confirmed that the complainant's son-in-law did swear at him before he went into the shop, he confirmed that he did wait for a short period of time but thought better of it and left. The allegation that he drove up and down the road outside the shop is fanciful. Cllr Sexton said that hoped that the Panel would see through the issues. The allegation that he performed a U-turn and followed the complainant's son-in-law is ridiculous. Cllr Sexton stated he was sworn at, so reversed the car to have a discussion and hoped to catch him, he didn't wait and was there a few seconds and left. Cllr Sexton said it was contradictory to say he recognised the complainant's son-in-law when he was in the shop, the reality was he knew what he had said and then went into the shop, the rest is nonsense, and Cllr Sexton does not believe that complainant's son-in-law is terrified.
25. Cllr Sexton considered that some of the assumptions made were outrageous and based on nothing. He said that the Police did not come to visit him regarding the Costcutters incident until August 2023 and only visited as curtesy. He also stated that the shop owner had confirmed to him that the police were not bothered by what they had viewed on the CCTV.
26. The Senior Lawyer (Commercial and Corporate Governance) read out the statement provided by a former Parish Councillor.
27. Cllr Sexton stated that the statement confirmed that the complainant's statement is theatrical and untruthful in that it confirms the reason why the complainant's daughter was not at her business that day was because she had a pre-arranged meeting.
28. The Senior Lawyer (Commercial and Corporate Governance) read out the statement provided by a neighbour of Cllr Sexton.
29. Referring to the statement Cllr Sexton said he has been provoked by the complainant's son-in-law for many months into responding but he has never responded.
30. Cllr Sexton stated that at no point had he been offered local resolution. He said he tried via the shop owner to shake hands and move on with the complainant's son-in-law, and he agreed to iron things out with the complainant's daughter but this was rejected by her and he was told not to contact her.
31. With regards to the Hearing, Cllr Sexton believed the decision to progress to a Standards Hearing was unnecessary and other options could have been explored. Cllr Sexton referenced the Procedure for Member Code of Conduct complaints where it states that complaints would be referred for an investigation as a last resort.
32. In accordance with the Council's Local Determination Procedure the Chair invited questions of Councillor Sexton.

33. The Governance Lawyer questioned Cllr Sexton as to whether he accepted a breach of the Code of Conduct had occurred. Cllr Sexton said he could understand how it could be perceived and with regards to the phone call the complainant's daughter, he accepted it was disrespectful, although denied bullying. A discussion took place between Cllr Sexton and the Governance Lawyer with the Governance Lawyer stating that local resolution could only be considered if there was an acceptance of a breach and that at no point during the assessment process did Cllr Sexton accept there was.
34. A member of the Panel asked Cllr Sexton whether he followed up about the complainant's daughter not opening her business. The Panel member explained their reasoning was whether she did actually attend the pre-arranged meeting. Cllr Sexton responded the reason he went down that route was that the complainant had said she was too distressed to open the business, and this was not true as it was open. Another Panel member asked if at the time of the incident with the complainant's son-in-law whether there was any signage requesting that the public keep dogs on the lead, Cllr Sexton responded that there was not.
35. The Independent Person asked Cllr Sexton for clarification around the conversation with the dog warden and the public challenging dog owners. Cllr Sexton stated that the dog warden would encourage members of the public to challenge one another and if they don't feel comfortable, they can ask Councillors to intervene. He explained that is why he struggled to differentiate between what he can and cannot do.

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

The Chair invited views from the Independent Person on whether he considered that Cllr Sexton had been acting in his capacity as a Councillor and whether there had been a breach of the Codes of Conduct. The Independent Person stated that with regards to the first interaction on the Millennium Green that as a responsible dog owner he shared Cllr Sexton's concerns. However, regarding the degree of interaction the Independent Person noted how easily events can escalate into a breach of the peace. The Independent Person stated that the complainant's son-in-law and Cllr Sexton live close by and are likely to come face to face, they have both expressed eagerness to keep the feud going and Cllr Sexton has sought to strengthen his position by seeking support of others. The Independent Person's view was that this position was made worse in the phone call to the complainant's daughter, where she said the application for the dog show and the issue with her husband were completely separate. Cllr Sexton maintained he did not bully her but must accept that if she felt bullied by his actions then he did bully her. The Independent Person stated that Cllr Sexton's behaviour was an overreach of his role as a Councillor and to some extent to his credit he accepts this. In terms of a resolution the Independent Person considered that an apology was owed

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

36. The Panel reached its findings in respect of the complaint. The Panel considered the papers before them, the video evidence and the representations made in reaching its conclusions.
37. The Panel first considered whether or not Councillor Sexton was acting in his capacity as a Councillor when the events subject to this complaint were made. The Code of Conduct for members applies whenever a Councillor acts, claims to act or give the impression they are acting as a representative of the Council. The Panel were satisfied that on both occasions evidenced during the videos played Cllr Sexton identified himself as a Councillor. The Panel noted Cllr Sexton's explanation that he identified himself as a Councillor as he hoped that it would carry some weight. The Panel were therefore satisfied that Cllr Sexton was acting in his capacity as both a Durham County Councillor and a Waldrige Parish Councillor during the separate interactions with the complainant's daughter and son-in-law.
38. The panel then went on to consider whether the comments made breached both the Durham County Council and Waldrige Parish Council Code of Conduct for members. In respect of the first incident that took place on the Millennium Green, the Panel concluded that Cllr Sexton's general demeanour was agitated and that he behaved in a disrespectful manner towards the complainant's son-in-law. The Panel were satisfied that Cllr Sexton's behaviour had breached the Code of Conduct in that he had not treated the complainant's son-in-law fairly or appropriately. The Panel considered that during the interaction Cllr Sexton had gone beyond his remit of Councillor in challenging complainant's son-in-law on the behaviour of his dog in the way that he did. The panel further considered that the inference from Cllr Sexton that he could use his position as Councillor to call the wardens to the complainant's son-in-law's door and to ban him from using the Millennium Green breached the Waldrige Parish Council Code of Conduct in that he improperly sought to confer a disadvantage to the complainant's son-in-law. Further, the Panel were satisfied that such conduct was sufficient so as amount to bullying and harassment of the complainant's son-in-law. The Panel were satisfied that in relation to the first incident on the Millennium Green Cllr Sexton had breached paragraphs 4.3 b, j and m of the Durham County Council Code of Conduct and paragraphs 1,2 and 4 of the Waldrige Parish Council Code of Conduct.
39. In relation to the second incident the Panel concluded that there was insufficient evidence for them to reach a conclusion on what had occurred between Cllr Sexton and the complainant's son-in-law on the 22 April 2023 as there was no video footage and there were conflicting accounts. However, the Panel were satisfied that a telephone call subsequently took place between Cllr Sexton and the complainant's daughter as a result of the incident the same day with Daniel. The Panel concluded that it was inappropriate for Cllr Sexton to have contacted the complainant's daughter



by telephone to discuss the problem he had with her husband. The Panel were satisfied that during the course of the telephone call Cllr Sexton sought to improperly confer a disadvantage upon the complainant's daughter namely to refuse to allow her charity dog show to take place on the Millennium Green due to the issues he had with her husband. The Panel found that the behaviour demonstrated towards the complainant's daughter during the telephone call was disrespectful, inappropriate and amounted to bullying. The Panel were satisfied that in relation to the second incident with the complainant's daughter Cllr Sexton had breached paragraphs 4.3 b, j and m of the Durham County Council Code of Conduct and paragraphs 1,2 and 4 of the Waldrige Parish Council Code of Conduct.

40. The Panel were satisfied that the behaviour displayed by Cllr Sexton during both incidents referred to was likely to bring the Council into disrepute and therefore concluded that paragraph 4.3 n of the Durham County Council code of conduct and paragraph 3 of the Waldrige Parish Council Code of Conduct has been breached.

### **Sanction**

41. In accordance with the Council's Local Determination Procedure the Standards Committee Panel invited representations from the Governance Lawyer, the Member and the Independent Person as to whether action should be taken and if so, what form the action should take.
42. Having considered all submissions the Panel determined that due to the nature of seriousness and the incidents and the breaches that have occurred the most appropriate sanctions are as follows;
- Censure; and
  - Written apology to the complainant's daughter and son-in-law, such apology to be provided to the complainant in the first instance; and
  - Code of Conduct training and training into the role and remit of a Parish and County Councillor.

### **Right of Appeal**

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

*Councillor Kathryn Rooney*

Councillor Kathryn Rooney

Vice Chair of the Standards Committee Hearing Panel

Dated 19.10.23