

Date: 9th December 2020
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Direct email: monitoringofficer@eastdevon.gov.uk
Our ref: MO/HGL/2020-C10, C11, C19



Cllr John Taylor
3 St John Close
Honiton
EX14 1PN

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You MUST NOT show this letter to ANYONE ELSE

Dear Cllr Taylor

Complaint Refs: MO/HGL/2020-C10, C11, C19
Subject Member: Councillor John Taylor

I refer to the above mentioned complaints which have been made against you by Mr John Burgess, Ms Sonia Hawkins and Mr Tony McCollum respectively. Given that the issues raised by the three complainants are substantially the same, I have combined the complaints and dealt with them as one. These complaints have been subject to independent investigation by Mr Tim Darsley. You had sight of Mr Darsley's report, had the opportunity to comment on it and were provided with a final copy having done so. I enclose a copy of the final report for ease. In addition I am aware that you sent some text messages and photographs to Mr Darsley, copies of which have been provided to me under cover of a letter dated 3rd December. I also have a letter from you (erroneously) dated 11th September. The letters of 11th September (sic) and 3rd December raise a number of different points and where they don't immediately relate to the specifics of these complaints they have been responded to separately. However, so far as relevant I have had regard to the content in coming to the decision below.

The nature of the complaints and the relevant paragraphs of the Code of Conduct are detailed in the Investigator's report and so I don't need to repeat them here. I note there are a couple of minor errors in the report – for example paragraph 6.17 mentions '*eight options*' when in fact there were only six, probably this occurred because Option 6 was at bullet point 8 – none of which materially affect the reasoning and views expressed.

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Having carefully considered the Independent Investigator's report and all related documentation at some length, I adopt the reasoning and the findings reached by him. It therefore follows that the Summary of Findings contained in Section 7 are now my conclusions in relation to the allegations. In summary your conduct has been disrespectful and bullying towards Mr McCollum in breach of paragraphs 4(a) and 5(c) of Honiton Town Council's Code of Conduct.

I think it important to address the points you have expressed in relation to general health & safety concerns (your comments on the report, text messages / photos and subsequent correspondence) and the fact that the Market Assistant, Carl Cracknell, was not interviewed.

It is my view that the documentation that led to the complaint (Investigation Report Documents 7 & 8) were prepared / sent in relation to the specific purpose of ensuring that the market could re-open safely in the context of COVID. It was not in the context of raising general health and safety concerns about operational matters within Honiton Town Council. This is patently clear when one reads the first sentence of the COVID Compliance Proposal document particularly, but actually the whole document and associated correspondence. While there was a passing remark in your interview to the safety of the Market Assistant, the COVID Compliance Proposal documentation and the specific purpose of the meeting of the 28th May and related actions were all around ensuring that the market was capable of being re-opened safely from everyone's perspective – not just the Market Assistant's – in accordance with relevant guidance. Following your interview with Mr Darsley, you made contact with him and sent text messages and photos purportedly in relation to the wider health and safety issues relating to the Market Assistant and previous actions of Mr McCollum and / or Honiton Town Council. This then manifests itself in your comments on the draft report and subsequently in your correspondence of (sic) 11th September and 3rd December.

I do not consider that the concerns over pre-existing health and safety matters are of relevance to the issues raised in the complaint for the reason given above – essentially this was about securing everyone's safety. In any event, I am not convinced that you had those concerns in mind when writing your document / correspondence - certainly the documentation seems conspicuously quiet about such issues had you been so concerned about it. Rather I think you saw it as an opportunity to be critical of what you perceive to be wrong doings by Mr McCollum as opposed to genuine concerns over Mr Cracknell's safety. Moreover, and assuming you had it in mind, there were alternative more appropriate avenues available to you to seek to address concerns over the Town Council's responsibility (for that is whose responsibility it is) to the Market Assistant rather than through veiled comments in the COVID Compliance Proposal.

In any event, some of the comments you make which go to the finding of breach bear no relation to the issue of the safety of the Market Assistant.

Given the above I am happy that it wasn't necessary for Mr Darsley to interview the Market Assistant. I would accept that it might have been useful to have interviewed him to obtain his views in relation to the meeting of 28th May in the High Street, however Mr Darsley has concluded

in line with your account rather than Mr McCollum's. I note that Mr Allen, one of the market traders was interviewed at your request.

I am mindful that the outcome from the East Devon District Council Standards Hearing Sub-Committee in relation to the complaint made by the former Clerk resulted in an outcome of censure and recommended training to be organised by me. That training has not happened, I assume because having had their decision quashed in the High Court, Honiton Town Council have simply not revisited the issue. However the sanctions imposed by East Devon were lawful, as Mr Justice Edis makes clear in the Judgment, and remain valid. The breaches that have occurred here and your correspondence of 11th September (sic) and 3rd December (in conjunction with the paperwork for the related matter) demonstrate to me that you do not fully understand the Code of Conduct and its application.

It is therefore my view that the following is appropriate in terms of sanction for the breaches which have been found;

1. Censure
2. A personal apology to Mr McCollum in writing
3. Training in relation to the Code of Conduct and more specifically bullying

Normally where a breach has been found following an investigation it remains open to me to seek to resolve this without it progressing further. For this to happen you will have to accept the above outcome and sanctions. I am happy to work with you in terms of a form of apology that would be considered acceptable to give to Mr McCollum and also to ensure appropriate training is given or undertaken. Naturally if you don't accept the outcome and wish to dispute the conclusions and progress this to the next stage then this will necessitate a public hearing in front of the Standards Hearing Sub Committee.

In conclusion, there are breaches of paragraphs 4(a) and 5(c) of the Code of Conduct which in my view should be subject to the sanctions detailed above.

I have consulted with the Independent Person who is in agreement with my views and conclusions on the matter.

Please can you confirm that you are willing to accept the findings and sanctions in this matter by **23rd December 2021**, after which date I will assume you do not and that you want to progress the matter to a Standards Hearing Sub Committee. Should you be agreeable to resolving the matter then I will work with you to facilitate this.

Please be aware that any written request for information made to the Authority about this matter will have to be dealt with in accordance with the requirements of the law. This includes any obligations imposed on the Authority under the Data Protection Act 1998, the Freedom of Information Act 2000 and the Human Rights Act 1998.

I am of course happy to discuss the matter with you and if you would like to do so or if you have any queries about the process please contact me or Anita Williams (Deputy Monitoring Officer).

Yours sincerely



Henry Gordon Lennox

Monitoring Officer

Footnote:

Terms of reference

The Standards regime as set out in the Localism Act 2011 - the detailed procedural arrangements having been agreed by East Devon District Council.

Additional Help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this letter we can make reasonable adjustments to help you.
