

**Report of an Investigation into a complaint by  
Cllr John Robini against Cllr Jerry Hyman of  
Waverley Borough Council**

**Private & Confidential**

**Final Version  
8 April 2022**

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Solicitor**

**PERSONAL CONTACT DETAILS REDACTED**

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**Richard Lingard – Curriculum Vitae**

Educated at Magdalen College School Oxford and Southampton University, I qualified as a Solicitor in 1980, trained in private practice and spent four years in the commercial sector before going into Local Government.

At the time of my retirement in September 2011, when I became a non-practising Solicitor, I was the Head of Legal & Democratic Services and Monitoring Officer at Guildford Borough Council, for whom I worked for some 30 years.

Since 2011, I have conducted and reported on over 50 investigations covering allegations of misconduct against City, County, Borough, Parish and Town Councillors and Officers in Berkshire, Hampshire, Hertfordshire, Kent and Surrey.

I have also carried out a number of procedural and governance reviews for local authorities in these areas and provided training sessions on ethical standards.

I am also an Independent Member of the Surrey Police Misconduct Panel.

## **EXECUTIVE SUMMARY**

This is the final version of my report of an investigation that I was commissioned to carry out into a complaint brought by Cllr John Robini against Cllr Jerry Hyman, of Waverley Borough Council (WBC), in respect of alleged breaches of the WBC Members' Code of Conduct.

I have concluded that Cllr Hyman has breached Paragraphs 1.1 and 1.2 of the Council's Code of Conduct.

### **1. INTRODUCTION**

- 1.1 Following an initial enquiry on 11 February 2022, I was formally instructed the following day by Mr. Daniel Bainbridge, Deputy Monitoring Officer of WBC, to conduct an independent investigation into a complaint brought by Cllr John Robini against Cllr Jerry Hyman, arising out of the latter's alleged conduct during an on-line 'Zoom' internal briefing meeting held on 18 August 2021.
- 1.2 The full text of Cllr Robini's complaint, as submitted to WBC Monitoring Officer Robin Taylor, is set out in **Appendix 1** to this report.
- 1.3 Cllr Robini's first email to Robin Taylor was on 23 August 2021. Mr Taylor replied to Cllr Robini with some follow up questions which he replied to on 27 August 2021. It was in his 27 August email that Cllr Robini confirmed that he wished his concerns to be handled by Mr Taylor as a formal complaint to the Monitoring Officer under WBC's arrangements for dealing with standards complaints.

### **2. PROCESS**

- 2.1 Mr. Bainbridge provided me with background information to the complaint, a number of copy emails and contact details for the two councillors involved. Having examined the documentation, I contacted Cllrs Robini and Hyman by email on 21 February, introducing myself and inviting them to 'meet' via Zoom.
- 2.2 The following day I received an email from Mr. Bainbridge advising me that Cllr Robini had told him he anticipated that a suitable apology might be forthcoming from Cllr Hyman and he asked me to 'hold fire' with the investigation until advised otherwise.
- 2.3 On 14 March Mr. Bainbridge told me that nothing had been heard from Cllr Hyman and asked me to resume the investigation. On that same day I accordingly sent further emails to the two councillors inviting them to

suggest a convenient time for us to speak. Cllr Robini replied later the same day and we agreed to meet via Zoom on 17 March.

2.4 I heard nothing from Cllr Hyman.

### **3. COUNCILLOR JOHN ROBINI**

3.1 I spoke to Cllr Robini via Zoom on 17 March and in accordance with my normal practice, and with his consent, I made an audio recording of our conversation and used it as the basis of a draft statement that I sent to him for comment and return, amended as he deemed necessary. He did not offer any comments on or corrections to my notes of our discussion.

3.2 Cllr John Robini (JR) is one of the Liberal Democrat members for Haslemere Critchmere and Shottermill ward and he is currently Mayor of Waverley. He is also a member of Surrey County Council and of Haslemere Town Council. He served as a Surrey Police officer for 43 years.

3.3 We discussed the incident that took place during a Zoom briefing on 18 August 2021. JR explained that WBC has been looking at cost savings and exploring ideas for increased efficiency. One issue under discussion is whether the Council needed to retain their offices at The Burys which are regarded as no longer fit for purpose. Suggestions for the future include disposal, renting out part and redevelopment / relocation.

3.4 There were some 30 participants (councillors and officers) in the briefing on 18 August. The Chief Executive was explaining a number of possible proposals including whether continued home working, introduced during the pandemic, was or might be the way forward when Cllr Hyman (JH) interrupted him claiming that he was 'bullshitting'.

3.5 He said that he did not realise that his microphone was switched on and apologised for that, rather than for the words he used. He then claimed that the proposals had been formulated in secret and that they had not been through any proper transparent process. This was denied by the Chief Executive, who described the processes to which the proposals had been subjected.

3.6 JH refuted this assertion and continued to complain about what he could tell his residents. He then went further by criticising the staff who had been working at home, suggesting that they had not been working as hard as they should. JR commented that any criticism of staff should be addressed confidentially to, for example, line managers and not broadcast in a wider forum such as the briefing under discussion.

- 3.7 I asked JR why he decided to lodge the complaint when the words complained of were not directed at him but at the Chief Executive. His response was that as Mayor, he felt it incumbent upon him not to allow such unbecoming comments about the Chief Executive and his staff to go unchallenged.
- 3.8 JR did not speak to the Chief Executive prior to lodging his complaint with the Monitoring Officer. He described the matter as trivial and said that a quick apology would have resolved the matter but a hoped-for apology from JH had not been forthcoming.
- 3.9 He spoke to JH on the telephone to try and persuade him accordingly, but to no avail because although JH agreed that the words he had used were not appropriate, he said that he had already apologised. In fact, his apology related to his having left his microphone switched on and not to the words he used.
- 3.10 I said that I would write to JH and establish whether he was willing to apologise or even engage in the investigation process. I added that if he declined to engage, I would compile my report without the benefit of any input from him.

#### **4. CLLR JERRY HYMAN**

- 4.1 As noted above, I initially contacted Cllr Hyman by email on 21 February and again on 14 March once Mr. Bainbridge had asked me to proceed.
- 4.2 Having received no reply to either message, I sent Cllr Hyman the letter reproduced at Appendix 2 by Recorded Delivery. That letter was posted on Thursday 17 March. It will be noted that I suggested to Cllr Hyman that there was still an opportunity to proffer an acceptable apology, which would not only bring this matter to a close but also avoid continued expenditure of taxpayer's money by prolonging this investigation.
- 4.3 On Monday 21<sup>st</sup> March I received a telephone call from Cllr Hyman. During a very brief conversation, curtailed (I believe) because of a loss of signal, Cllr Hyman told me that he understood Cllr Robini to have withdrawn his complaint because he (Cllr Hyman) had apologised for what he had said during the briefing in August.
- 4.4 I explained that my understanding was that the apology he had offered (i.e., for the fact that he had left his microphone switched on rather than for the words used) was regarded by Cllr Robini as inadequate, that his complaint was still 'live' and that I would accordingly continue with my investigation. When we were cut off, I tried to return Cllr Hyman's call but to no avail.

- 4.5 I received no further communication from Cllr Hyman and did not think it a good use of time or resources to write to him again. I accordingly proceeded without any further input from him.

## **5. THE WAVERLEY CODE OF CONDUCT FOR MEMBERS**

- 5.1 On 22 March 2021, Waverley Borough Council adopted the LGA Model Councillor Code of Conduct 2020 as its Local Members' Code of Conduct. The current version of the Code is enshrined as Part 5 of the Council's Constitution.

- 5.2 The Code applies to councillors when acting as such. At the material time (i.e., 18 August 2021), Cllr Hyman was a serving councillor and acting as such and was therefore bound by the provisions of the Code, the relevant section of which reads as follows:

### **Section 1. RESPECT**

As a councillor:

- 1.1 I treat other councillors and members of the public with respect.
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

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.

- 5.3 It is appreciated that the subject of discussion during the briefing on 18 August was controversial and it is understandable that feelings may have been running high and although in the general scheme of things, the word 'bullshitting' may not nowadays be regarded as particularly offensive when compared with other expressions, in using the language that he did towards the Chief Executive (the actual words not being in dispute) Cllr Hyman was in my view in clear breach of the provisions of the Code cited above.
- 5.4 The fact that the Chief Executive did not bring a complaint does not detract from the view I take of Cllr Hyman's conduct and it is unfortunate that he has

not taken the opportunity, either before or after our curtailed telephone conversation on 21 March to proffer an appropriately worded apology.

## **6. DRAFT CONCLUSION**

6.1 My draft conclusion was that Cllr Hyman breached Paragraphs 1.1 and 1.2 of the WBC Code of Conduct for Members.

## **7. THE DRAFT REPORT**

7.1 On 29 March I sent my draft report to Mr. Bainbridge seeking his confirmation that it met the Council's requirements in terms of format, content and coverage. I did not seek his views on my draft conclusion. On receipt of this confirmation the following day I sent copies of the draft to Cllrs Robini and Hyman inviting them to comment within the following ten days.

7.2 Cllr Robini's response was that my report was 'fair' and he said that he had nothing to add.

7.3 I heard nothing from Cllr Hyman in response to the draft

## **8. FINAL CONCLUSION**

8.1 In the circumstances, I stand by my draft conclusion, namely that by accusing the Chief Executive of 'bullshitting' during the briefing on 18 August 2021, Cllr Jerry Hyman breached paragraphs 1.1 and 1.2 of the WBC Code of Conduct.

**Richard Lingard**

**8 April 2022**

## **APPENDICES**

1. Full Text of the complaint by Cllr John Robini
2. Letter to Cllr Hyman dated 17 March 2022

## APPENDIX 1

### THE COMPLAINT

Robin

Reluctantly I feel as Mayor | must make a formal complaint against Councillor Jerry Hyman. This took place on 18th August 2021 at a zoom meeting entitled Where Work Happens.

There were Councillors and Waverley employed Officers present at this meeting. It was not being broadcast to the public, and was an update to Councillors on the present and future workings of the Council and its staff and its resources.

During this presentation the Chief Executive Tom Horwood was explaining staff practice of working at home during and following the pandemic, and the projected use of our main building.

| was upset and astounded by Councillor Hyman rudely interrupting the CE claiming he was bullshitting. He then claimed he did not realise his audio was on. He went further by claiming all these plans had been held in secret and they had not been subject to any proper and transparent process. This was denied by the CE and gave information of the process. Councillor Hyman refuted this and continually complained about what he could tell his residents. He then went further criticising the staff working at home as allowing them not to work as hard as they should.

This interrupted the presentation and the CE refused to be baited by Councillor Hyman and passed over to other Officers to continue. I found the rudeness and the denial of facts abhorrent from a long-standing Councillor, and I was embarrassed by his attack on the staff, executive and CE who I have every faith in them working hard and following the correct and transparent processes under extremely difficult circumstances.

I would suggest his actions break one of the seven principles treating people fairly and with respect. Under 1/ Respect 1.1 treat other Councillors fairly and with respect

And 1.2 treat employees fairly and with respect.



I am sure other members and staff were offended and embarrassed by Councillor Hyman's conduct.

I am happy to allow my name to be released as author of this complaint. Regards  
Councillor John Robini.

**PERSONAL CONTACT DETAILS REDACTED**

17 March 2022

Dear Cllr Hyman

**COMPLAINT BY CLLR JOHN ROBINI**

I refer to my emails of 21 February and 14 March and note that I have not heard from you. I consider it highly unlikely that neither of these messages reached you, but am sending you this letter out of an abundance of caution.

I have been instructed by Daniel Bainbridge, Deputy Monitoring Officer of Waverley Borough Council, to conduct an independent investigation into the complaint brought against you by Cllr John Robini arising out of a remark you addressed to the Chief Executive during a briefing meeting entitled 'Where Work Happens' held via Zoom on 18th August 2021.

Whilst I have been provided with background information and certain documentation, it would be helpful to hear your 'side of the story' now that I have spoken to Cllr Robini.

In the interests of economy and expediency, I would favour a Zoom meeting. If you are happy to proceed on this basis, perhaps you could let me know your availability over the next ten days in the hope that we can identify a time that suits both of us. I don't imagine that I would need more than, say, 45 minutes of your time. I am available in the evenings if that helps.

It has been suggested that I put it to you that an appropriately worded apology from you for the actual words used rather than for the fact that you left your microphone switched on would be a satisfactory and considerably swifter and more economical means of bringing this matter to a close than continuing with the conduct of my investigation.

I set out below a brief CV for your information and look forward to hearing from you but if you do not wish to engage in this process, I should be grateful to know that as soon as possible.

Yours sincerely

Richard Lingard

## **Curriculum Vitae**

*Educated at Magdalen College School Oxford and Southampton University, I qualified as a Solicitor in 1980, trained in private practice and spent four years in the commercial sector before going into Local Government.*

*At the time of my retirement in September 2011, when I became a non-practising Solicitor, I was the Head of Legal & Democratic Services and Monitoring Officer at Guildford Borough Council, for whom I worked for some 30 years.*

*Since 2011, I have conducted and reported on over 50 investigations covering allegations of misconduct against City, County, Borough, Parish and Town Councillors and Officers in Berkshire, Hampshire, Hertfordshire, Kent and Surrey.*

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