

Annexe 6 – correspondence

Email 1

From: Monitoring Officer
To: Cllr Jerry Hyman
Date: 23.9.22

Dear Cllr Hyman

I am writing to let you know that I have received a complaint about you from Cllr John Robini.

Cllr Robini feels that you breached your code of conduct at the 18th of August councillor briefing on 'where work happens' and the Burys development projects when you were heard by all present at the Zoom meeting to describe an answer given to you by the Chief Executive as "bullshit". Cllr Robini feels that you showed disrespect to others by using this language, by interrupting the Chief Executive and by criticising staff.

Cllr Robini submitted his complaint to me the day after that meeting. In line with our arrangements, before approaching you I asked him to confirm the details of his complaint and whether he would be happy to be identified as the complainant which he has since done. My leave arrangements during August and early September have prevented me from progressing this matter with you until now.

In the interests of transparency I copy below the text of Cllr Robini's complaint.

Copy of email from Cllr Robini:

Robin

Reluctantly I feel as Mayor I 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.

I 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 on his attack on the staff, executive and CE who I have every faith in them working hard and following the correct and transparent process's 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 Hymans conduct.

I am happy to allow my name to be released as author of this complaint.

Regards

Councillor John Robini

The briefing meeting in question was one I also attended so I am aware of the exchange that took place. This means I am not hearing about the matter second hand but witnessed it directly. I would suggest that any reasonable person would judge that your behaviour towards the Chief Executive fell short of the standards set out within your code of conduct and indeed within the Council's officer/member protocol. That is certainly the view I took at the time and I was particularly disappointed given that I had only written to you two weeks before the meeting in question expressing my concern about your approach towards Council Officers and reminding you of the outcomes of the 1 February 2019 Standards Hearing which found you had breached the code of conduct and the Council's member/officer protocol and advised you on how you could avoid doing so in the future.

As a reminder I attach that email from me. The links to the code and member/officer protocol are now out of date due to changes to our website. For reference I copy up to date links below to both documents. The link to the February 2019 standards panel report remains the same.

I continue to take the view that the conclusion reached by the Standards Hearing panel when they considered the previous complaint against you that 'members can and should challenge officers' but that 'this must be done in a respectful way' 'is highly relevant and something you urgently need to give your attention to. I think it was certainly relevant here. I noted, for example, that in the exchange at the August briefing meeting the Chief Executive confirmed he shared some of your concerns and responded to you about how the Council intended to tackle these issues. The challenge from him was very clearly in respect of your language and your confrontational approach rather than the fact that you held concerns and wished to express these.

It is my job to ensure that the complaint from Cllr Robini is properly considered and dealt with.

I would therefore like to meet with you to talk through the concerns that have been raised and to provide you with the opportunity to give your own perspective on the matter. As you know, our arrangements encourage an informal resolution without formal escalation where this is to the satisfaction of those involved. I would ask you to give careful consideration to what you feel you could do in order to informally resolving this matter, for example by way of an apology and a clear commitment to taking a less confrontational and more respectful approach in future. You may have other ideas and I would like to hear these.

My assistant Alice Raines will be in touch to arrange a meeting with you to discuss this. I am happy to meet face-to-face or by Zoom as you prefer. I will be joined in that meeting by one of the Council's Deputy Monitoring Officers and by a note taker. You would be very welcome to bring along a companion to the meeting should you wish to.

For the avoidance of doubt, I have not received any complaint about you from the Chief Executive himself. However, I have made him aware that a complaint that has been submitted to me by Cllr Robini about your words and actions during the meeting in question and that I will be inviting you to discuss this matter with me.

If you have any questions about the process please do not hesitate to get in touch with me.

Kind regards

Robin

Links to standards documentation

A link to the Council's arrangements regarding complaints about alleged councillor misconduct can be found by clicking on the following link:

<https://modgov.waverley.gov.uk/documents/s42120/ArrangementsfordealingwithMembercomplaintsOct2016.pdf>

The Waverley Borough Model Councillor Code of Conduct can be found by clicking on the following link:

[Model Councillor Code of Conduct 2020 \(waverley.gov.uk\)](#)

The Waverley Officer/Member protocol can be found by clicking on the following link:

[Part 5 - Officer Member Protocol.pdf \(waverley.gov.uk\)](#)

Robin Taylor

Head of Policy and Governance (Monitoring Officer)

Waverley Borough Council

www.waverley.gov.uk

Direct line: 01483 52 3108

Email 2 (this email was attached to email 1 above and is referred to in that email)

From: Monitoring Officer
To: Cllr Jerry Hyman
Date: 4.8.21

Dear Cllr Hyman

A short while has passed since the recent Western Planning meeting. However, I feel it is important to write to you and share my reflections on an email that you circulated to councillors, a local journalist, the Head of Planning and Economic Development and a member of his team on 20 July at 17:37 (copy attached) which was shared with me.

In this email I will not focus on any of your technical, planning or legal points. I am aware Zac Ellwood will be picking up some of the technical issues with you and if there is anything further you need by way of advice from the Council's legal team I know Daniel Bainbridge will be happy to ensure this is provided to you. Instead I wish to draw your attention to what I judge to be some unfortunate terminology in your email and to give you my advice as Monitoring Officer that you should avoid using language such as this when communicating with officers. As you know, as a councillor you are bound by [your code of conduct](#) to treat others, including officers, with respect (see general conduct 1.2 within the new code). The Council's [Officer-Member Protocols](#) commit councillors and officers to aspiring 'to conduct their relations, at all times, on a professional basis' and that those relations 'must be based on mutual trust, respect and courtesy'.

The references in your email to 'habitual lawbreakers' and 'culprits' do not, in my view, adhere to the expectations of good conduct and professional relations set out within these codes and I would ask you to carefully reflect on how you can convey your views and any concerns in a more objective way without resorting to this sort of disrespectful terminology.

In February 2019, a panel of councillors met to consider allegations that you had breached your code of conduct in how you had addressed council officers when expressing your views and concerns about planning and legal matters. [Here is a link](#) to the public record of the panel's judgement. I would respectfully ask you to reappraise yourself of the panel's decisions as I do think their conclusions remain very relevant.

I note in particular that the panel noted the rights you, and all councillors have, to freedom of expression. They judged that 'members can and should challenge officers'. However, they concluded that 'this must be done in a respectful way'. I would like to reiterate that advice today. You absolutely do have the right to hold and express your own views and to challenge the views of others. However, please take extra care in future to do so in a manner that avoids any element of personal criticism or disrespect.

If you would like to discuss any aspect of this advice note with me please do not hesitate to get in contact with me or a member of my team. In this situation there is no complaint from any individual for me to respond to I am simply choosing to share my thoughts and advice, as Monitoring Officer with the hope that you will reflect on my advice and take it on board.

Kind regards
Robin

Robin Taylor
Head of Policy and Governance (Monitoring Officer)
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Direct line: 01483 52 3108

Email 3

From: Monitoring Officer
To: Cllr Jerry Hyman
Date: 28.9.21

Dear Cllr Hyman

Can I please check you received and have seen the email below from me?

Kind regards

Robin

Email 4

From: Executive Assistant to Monitoring Officer
To: Cllr Jerry Hyman
Date: 1.10.21

Dear Cllr Hyman

Further to, Robin Taylor's emails dated 23 September 2021 and 28th September 2021, please find below some suggested dates and times for you to meet with him:

- Wednesday 13 October at 11am
- Wednesday 13th October at 3pm
- Friday 15th October at 10am

Please can you let me know if you are available for any of the above dates and times?

Kind regards

Alice

Email 5

From: Monitoring Officer
To: Cllr Jerry Hyman
Date: 8.10.21

Dear Cllr Hyman

Can I please draw your attention to my emails of 23 Sept and 28 Sept and Alice Raines' email to you of 1 October. I would be grateful if you could ensure you read these emails and confirm when you would be available to meet (in person or remotely).

Alice will be able to provide alternative dates and times if those in her email are not convenient to you.

I am keen to ensure you make use of your right to be fully engaged and involved in my handling of the complaint I have received about you so that I can hear first hand from you what your perspective is.

I would respectfully ask that you respond to Alice or me next week even if only to confirm a date and time to meet (by the end of 17th October).

If I have not heard from you by then I will, reluctantly, continue to process the complaint without considering your own perspective on it.

Hopefully that will not need to be possible but if that is where we get to then it would not change of your rights under our arrangements, including to consult the Independent Person if I choose to seek their view on the matter.

Kind regards

Robin

Email 6

From: Monitoring Officer
To: Cllr Jerry Hyman
Date: 17.11.21

Dear Cllr Hyman

Thank you for phoning me at 1630 today as planned.

As I said during the call, the purpose of the call was threefold:

1. Firstly to ask whether or not you had received my emails and post.
2. Secondly, to advise you, out of courtesy, that the complaint against you would now move onto the next stage, review by the Independent Person (IP), without the benefit of your perspective being on record.
3. Thirdly, in the interests of being very flexible indeed, to provide a final chance for you to put your perspective on record and to engage in the process.

Thank you for confirming you received the various emails I have sent you and had received copies of the same by post. I was very disappointed to hear that you "hadn't bothered to read them".

I was very disappointed in the approach you took on the phone call, particularly that you chose to raise your voice, to talk (and shout) over me repeatedly, and to be consistently aggressive towards me personally during the call.

During the call, you also sought repeatedly to ridicule the Council's arrangements for dealing with allegations of misconduct by councillors, describing them as a "mickey mouse process" and a "kangaroo court".

In the call, when I challenged you on the aggressive approach you were taking, your reply was that it was Cllr Robini who, in making a complaint, was being aggressive rather than you. You also said that it was me who was being aggressive rather than you and that I was wasting your time in raising the matter with you.

You suggested it was ok for my time to be wasted as I was paid to have my time wasted whereas your time shouldn't be wasted as you are not. This statement seems to me to be factually incorrect in various ways as well as clearly running contrary to the mutual respect and courtesy expected by you within the Waverley member/officer protocol and the high standards of conduct and respect expected of you in your code of conduct.

[Sensitive personal information redacted]

I have always taken care to ensure that my communications with you have been fair, reasonable, calmly put and respectful. This is the approach I will continue to take whilst investigating this complaint, despite you not offering me the same courtesy.

During the call you made one point that seemed to relate to your perspective on the complaint. This was that you had apologised, at the time of the briefing, for having accidentally left your mic on. To be clear, what you actually did was to shout the words "I apologised at the time for leaving my mic on. What more do you want from me?". I will ensure the IP is made aware of your perspective in this respect.

Our call ended when you put the phone down whilst I was in mid-sentence.

To confirm, I will now write to the Independent Person to seek a view on this complaint before deciding whether or not a formal investigation is required. I will make a copy of this email available to the IP alongside the other documentation posted to you. You confirmed you refuse to meet with me to discuss this matter. However, I said that if you wished to put anything in writing then you may do so and I will ensure the IP sees it.

To be clear, it remains open to you, as the councillor being complained about, to engage in this process in the various ways set out within our arrangements. As I said on the phone, there is no point in you directing your aggression and ridicule towards me (or anyone of course) and it does not reflect well on you that you did so. I said on the phone that I'm sure you could do better than that and that is indeed my view.

It is my job to ensure that complaints are investigated and an important part of that process is to seek your perspective and consider this alongside the perspective of the complainant. I continue to hold the view that this process will be more meaningful if you take up the opportunity offered to you to engage in it properly and respectfully. If you do choose to do so, I will welcome that and ensure your views are heard and carefully considered.

Yours sincerely

Robin

Email 7

From: Monitoring Officer
To: Cllr Jerry Hyman
Date: 9.5.21

Dear Cllr Hyman

As you know, Mr Lingard has now completed his investigation and provided you (and Cllr Robini) with an opportunity to comment on his draft report before issuing the final version to me. Mr Lingard has now issued his final report to me. This is attached. The only change made to the final report is within paragraph 1.3 where the dates of Cllr Robini's emails to me have been added.

Having received this report, which identifies evidence of a breach of your code of conduct, and having now consulted with the Independent Person Mr William Donnelly on it, I am required to decide whether the matter is to be considered at a public hearing or whether some sort of local resolution can be reached.

As set out in my previous email to you (see below), this matter could be reasonably resolved by you choosing to apologise for your choice of words (and not just for having left yourself unmuted). This would, in my view, stand as a local resolution without the need for a hearing. The complainant Cllr Robini and the Independent Person and I all agree on this point. As you have not to date chosen to pursue this resolution, despite, as I understand it, suggesting to Cllr Robini that you would, I will now begin making arrangements for a hearing to take place.

However, it remains open to you even at this late stage to choose, on reflection, to make such an apology. If you do then please do copy this to me into this so I am aware that you have done it and can consult with the complainant Cllr Robini and the Independent Person William Donnelly about whether arrangements for the hearing should be cancelled.

My colleagues Alice Raines will get in touch with you about dates for your hearing. If you wish to submit a written statement to be considered at the hearing please submit this to me by 5pm 30 May. Please also confirm whether you plan to call any witnesses at the hearing. Please note if you do not respond or are unreasonable about your availability the hearing will still be convened. You are invited to attend but the hearing will take place whether or not you attend.

As a reminder, I reattach the arrangements that I am following. Please see section 7 in particular. You will be aware that these arrangements were recently revised by Council. However, the attached are those that were in place when the complaint was made and are the same as I have already shared with you and it is these that will continue guide my approach in regards to this case.

Kind regards

Robin

Email 8

From: Executive Assistant to Monitoring Officer
To: Cllr Jerry Hyman
Date: 18.5.22

Dear Cllr Hyman

Following on from Robin's email below, we are proposing to hold the hearing on Tuesday 28th June.

Please can you confirm if you available to attend on the above date?

Kind regards

Alice

Email 9

From: Executive Assistant to Monitoring Officer
To: Cllr Jerry Hyman
Date: 30.5.22

Dear Cllr Hyman

Please can you confirm if you available to attend the proposed hearing on Tuesday 28th June?

Kind regards

Alice

Email 10

From: Monitoring Officer
To: Cllr Jerry Hyman
Date: 10.6.22

Dear Cllr Hyman

Further to my email to you of 9 May and Alice Raines' emails to you of 18 May and 30 May, this email is to confirm that your standards hearing will take place on 28 June at 10am at the Burys in the Chamber. You were invited to submit a statement but have exercised your right not to do so. You were invited to provide information about your availability but regrettably did not respond. You are still very welcome to attend the hearing if you wish but do not have to if you do not wish to. Please let me know if you wish to attend and if you plan to call any witnesses. I will ensure you receive a hard copy of the papers in advance of the hearing.

Kind regards

Robin Taylor