

STANDARDS COMMITTEE

22 JULY 2020

Present:

Councillors Keeling (Chairman), Haines, Nuttall and Peart

Members in Attendance:

Councillors Daws and Mullone

Apologies:

Councillors Bullivant and L Petherick

Officers in Attendance:

Karen Trickey, Solicitor to the Council and Monitoring Officer

Sarah Selway, Democratic Services Team Leader & Deputy Monitoring Officer

Paul Woodhead, Solicitor & Deputy Monitoring Officer

Also in Attendance:

Independents Persons – Mr Barnicott and Ms Smith

Parish Representative – Cllr Dowding (non-voting)

Investigator – Mr Darsley

12. APOLOGIES

Councillor L Petherick gave her apologies.

Councillor Bullivant gave his apologies as he had a personal interest.

13. DECLARATIONS OF INTEREST

There were no declarations of interest.

14. STANDARDS COMPLAINT

The Committee considered the published report in line with the procedure set out in the agenda.

Attached is the You Tube stream of the meeting [Standards Committee 22 July 2020](#)

The Committee resolved to go into confidential session to consider the Investigator's recommendations regarding the alleged breaches of the Members' Code of Conduct.

RESOLVED:


Having made a finding of facts as set out in its Decision Notice, the Committee concludes that Cllr Mullone breached the Members' Code of Conduct as provided for in the Decision Notice and that

- (a) It is appropriate to publicly censure Cllr Mullone for the conduct which is detailed in the Report and has been upheld by this Committee. Consequently, the decision notice on this matter is published.
- (b) Cllr Mullone is requested to write within 10 working days of this decision being notified to him, an unequivocal letter of apology (the content of such to be approved in advance by the Monitoring Officer and Chairman of Standards Committee) to those officers to whom the Committee has found he was disrespectful.
- (c) The Committee sends a letter to all staff within the Council making it clear that staff are not expected to tolerate disrespectful behaviour, intimidation or bullying conduct by councillors towards staff and that any concerns can be reported in confidence for action.
- (d) It be noted that if the Committee had the power to suspend Cllr Mullone from being a councillor, the Committee would have suspended Cllr Mullone for up to 6 months.

Decision notice attached.

The meeting started at 10.30 am and finished at 12.17 pm.

Chairman

	<p>STANDARDS COMMITTEE 22 July 2020</p> <p>DECISION NOTICE</p>
---	--

1. Matter considered:

- 1.1 The Council has a statutory duty to promote and maintain high standards of conduct amongst its councillors. Consequently, at its meeting on 22 July 2020, the Standards Committee considered the findings of an independent investigator that District Councillor Liam Mullone had breached the Teignbridge Members' Code of Conduct ("the Code").
- 1.2 The independent investigation report has been published. Full details of the alleged conduct of Cllr Mullone and the findings of the investigator are set out in Sections 5 and 6 of the report with a summary of the investigator's findings being provided in Section 7. The full report ("the Report") is available on the Council's website at:
- <https://democracy.teignbridge.gov.uk/ieListDocuments.aspx?CId=276&MId=2857&Ver=4>
- 1.3 In summary the investigator's findings that Cllr Mullone had breached the Code centre around his published comments regarding staff on seven separate occasions since he accepted the office of councillor in May 2019 and on one occasion towards a group of fellow councillors.
- 1.4 The matter was considered by the Committee in consultation with the Council's Independent Persons.

2. Relevant Code of Conduct Provisions:

- 2.1 The Code applies to all elected members of the Council whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed.
- 2.2 The relevant provisions of the Code are set out in paragraphs 4.1, 4.2 and 4.7. They set out the requirement for councillors:
- 4.1 To behave in such a way that a reasonable person would regard as respectful;
- 4.2 Not act in a way which a reasonable person would regard as bullying or intimidatory; and
- 4.7 Not to bring the office of councillor or the Council into disrepute.

3. Representations of Cllr Mullone:

- 3.1 Cllr Mullone was interviewed during the investigation and provided with a draft copy of the report for comment before it was finalised. At the Committee he was supported by his Deputy Group Leader, Cllr Richard Daws. Cllr Mullone objected to the Report. No witnesses gave evidence at the meeting. However, at the meeting Cllr Daws also spoke on Cllr Mullone's behalf. Cllr Mullone also provided a video which he had produced in advance of the hearing which the committee members viewed. Cllr Mullone considered

he had not received the information he needed to respond to the allegations and that the Council had acted unlawfully, including referring to his own, his political group and his electorate's views on the Council's Local Plan Policy NA3 which were ideologically opposed to the proposed development in the area. In respect to findings of fact set out in the Report, Cllr Mullone did not dispute the publication or existence of the various comments he had made; all having been made in support of local residents' and his political group's position regarding the matter. He confirmed that another web based publication PRSD had copied an entry he made privately on line to which the general public did not have access and had used that publicly with his agreement.

- 3.2 Cllr Mullone emphasised he had made efforts, albeit unsuccessfully, when he had been elected to the Council in May 2019 to remove elements of the comments he had made on the NSN webpage which were directed at Council staff. He added that his comments were satirical humour. He considered the concerns raised were simply about the language he had used; that language couldn't offend as it was neutral; and to suggest otherwise was silly. He informed the Committee that his use of language was attributable to him having Asperger syndrome which he controlled effectively in council meetings. He considered that the Council had not shown him the level of understanding and empathy which he considered had been extended to another councillor who had made similar comments about officers before December 2019. He considered he had not been provided with information to enable him to evidence allegations he or his group were making against the Council regarding the Local Plan, because he considered he had been unlawfully refused information to which he was entitled. In support of such he referred to an Order of the First Tribunal by Judge Moira MacMillan.
- 3.3 In respect to whether his conduct amounted to a breach of the Code, in addition to repeating some of the points above, he referred to not being willing to discuss or resolve the allegation informally, when approached in November 2019 as he considered he had been the subject of a public smear campaign at the time which was reported in the local paper. He considered that the investigation into this conduct had been political motivated and an abuse of the Council's powers.

4. Committee Findings:

- 4.1 Taking account of all relevant circumstances (including relevant legislation and equality duties) as well as representations made by and on behalf of Cllr Mullone, the committee reached the following conclusions.
- 4.2 It was not in dispute that the Code applied at all relevant times about which the independent investigator had concluded a breach of the Code had occurred.
- 4.3 Regarding the findings of facts as set out in the Report it was apparent that there was no material, if any, dispute regarding the facts. The Committee noted that the Order which Cllr Mullone had referred concerned an appeal case between the Information Commissioner's Office and another party, not the Council, nor one that related to NA3 or the standards complaint before the Committee and the case is still ongoing.
- 4.4 In the absence of any substantive evidence to dispute the findings of fact, the Committee found that on the balance of probabilities the material facts set out in Section 5 of the report, were established.

- 4.5 **With regards to his comments regarding officers on NSN website and Facebook posts on 24 and 28 September and 4, 22 and 29 October, the Committee found that Councillor Mullone's comments as set out in the Report, were disrespectful to officers and contrary to paragraph 4.1 of the Code.** The comments concerned the careers, work and characters of those involved in preparing the Local Plan. They were not only unpleasant, discourteous and undermining, but came across, at least in some instances, as spiteful and certainly not such that could reasonably be put down to humour even at a satirical level. Language could cause offence and distress to staff; and it had indeed done so, understandably, to at least one of the officers concerned. The comments had the potential to undermine the good professional reputations of individuals who were employed by the Council to perform the roles – roles which they did in a professional and courteous manner. All councillors should be respectful to officers even, as was inevitable on occasion, where officers' impartial and professional advice was significantly at odds with the political views of elected members. It was possible to have differences of opinion without resorting to offensive comments however ideological a councillor's view might be. There was a reasonable expectation as well as a requirement in the Code that all councillors should be respectful of the views or position of others. The Committee was satisfied that any reasonable and objective observer (being the relevant standard and test for breaches of the Code), would find the comments to be contrary to the requirement upon Cllr Mullone to behave in a respectful manner.
- 4.6 **The Committee also shared the Investigator's conclusion that the comments Cllr Mullone had specifically directed towards a group of councillors (see Report paragraph 6.50 – 6.53) had been disrespectful, again in breach of the Code.** Whilst all councillors have to be prepared to deal with robust political debate, they do not have to tolerate criticism directed at personal characteristics as indeed Cllr Mullone's comments had been.
- 4.7 **In respect to Cllr Mullone's Facebook post of 4 October 2019, for the reasons also set out in the Report (see paragraph 6.38) the Committee concluded that Cllr Mullone had acted in an intimidating manner towards an officer (contrary to para 4.2 of the Code).** Councillors are specifically prohibited in the Code from acting in a way which a reasonable person would regard as 'bullying or intimidatory'. The Code provides guidance that a common sense definition of these words will be applied and provides some examples of such behaviour which include: insulting someone by word or behaviour; or ridiculing or demeaning them. The comments by Cllr Mullone served to do that whether he intended to do so or not; or he was reckless as to whether or not they did. In addition to the conduct being, as described by the investigator as grossly disrespectful and upsetting for the officer, the Committee agrees that any reasonable and objective person would consider such comments to have been unacceptable and having amounted to a form of intimidation.
- 4.8 **The Committee decided that in connection with his comments on 24 September and 4 October, Cllr Mullone had again breached the Code on three further occasions (see Report paragraphs 6.20, 6.38 and 6.46) – this time by bringing his office as a councillor into disrepute contrary to para 4.7 of the Code.** The Committee considered that Cllr Mullone's behaviour was not that which a reasonable and objective observer would consider fair or in any way appropriate for a councillor. The comments completely failed to understand or in any way recognise the accountability of elected councillors for the Council's position on the Local Plan which was based upon democratic decision making; instead directing his criticism of the Council's position on individuals employed to work for the Council. His actions fell significantly below the standards which a reasonable and objective observer would expect of a councillor.

5. Sanction:

- 5.1 The Committee also acknowledges that it is under a statutory duty to promote and maintain high standards of conduct amongst its councillors. It has a role in securing the investigation and review of legitimate concerns raised about the conduct of councillors. The Committee has found instances of disrespect and / or intimidation by Cllr Mullone particularly towards Council employees. He also brought his office as councillor into disrepute.
- 5.2 Cllr Mullone has not apologised for his conduct, instead considering the standards process an abuse of the Council's powers. The comments which he and also his supporter have directed at officers and the investigator during the meeting have only served to highlight the unacceptable conduct to which other persons have been subjected and are examined in the Report – persons who are performing their roles within the context of the Council's previously established adopted Local Plan. The Committee wishes to express its thanks to officers and in particular, the investigator who have assisted with this investigation.
- 5.3 On carefully considering all his representations, the Committee did not consider Cllr Mullone would benefit from attending further training, at his own expense or otherwise. Further given his conduct was focused on officers rather than at members / committees; no concerns have been raised about his conduct in committee; and the fact that Cllr Mullone is his political group's leader, removal from any committee would not be an effective sanction. The Committee recognises that its current powers in terms of sanctions are limited. Council sanctions against members who breach the Code of Conduct are the subject of national government review at the moment. Changes are anticipated which may see a return of the power for Standards Committees to suspend councillors. In the meantime the Committee has decided:
- 5.3.1 It is appropriate to publicly censure Cllr Mullone for the conduct which is detailed in the Report and has been upheld by this Committee. Consequently, this full decision notice is to be published.
- 5.3.2 Cllr Mullone is requested to write within 10 working days of this decision being notified to him, an unequivocal letter of apology (the content of such to be approved in advance by the Monitoring Officer and Chairman of Standards Committee) to those officers to whom the Committee has found he was disrespectful.
- 5.3.3 The Committee sends a letter to all staff within the Council making it clear that staff are not expected to tolerate disrespectful behaviour, intimidation or bullying conduct by councillors towards staff and that any concerns can be reported in confidence for action.
- 5.3.4 It be noted that if the Committee had the power to suspend Cllr Mullone from being a councillor, the Committee would have suspended Cllr Mullone for up to 6 months.

**For and on behalf of Standards Hearings Panel, Standards Committee
Standards Committee Chairman
Decision 22 July 2020
Notification 29 July 2020**