



## Standards Decision Notice

Case: 2021/C17

**Subject Member:** Cllr John Zarczynski  
**Authority:** Honiton Town Council  
**Complainant:** Mark Tredwin

### **Brief statement of allegation:**

It is alleged that during Honiton Town Council's Annual Meeting on the 12<sup>th</sup> April, held via Zoom, when asked to comment on staff being bullied by Members, that after repeatedly stating that he was not able to discuss HR matters, Cllr Zarczynski went on to suggest that the only bullying he was aware of was when two former senior members of staff had bullied a junior member of staff into resigning. Whilst not mentioning either of the names of the members of staff, the complainant believes that it would have been clear to people who attended or watched the meeting that Cllr Zarczynski was referring to the complainant and another former employee. The complainant refutes there is any truth in this claim and alleges that this is a deliberate attempt to deflect accusations of bullying against Honiton Town Council's Members.

### **Relevant paragraphs of the Code of Conduct:**

4. You **must**
- (a) treat others with courtesy and respect including fellow council members, staff and members of the public;
5. You **must not**
- (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
  - (d) intimidate or attempt to intimidate any person who is or is likely to be –
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct;

- (f) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature;
- h) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

**Subject member comments:**

Cllr Zarczynski has responded and his comments (where they are relevant) are as follows;  
*'From recollection I do believe I was asked to respond to allegations of bullying at Honiton Town Council*

*I can confirm I did not name anyone but simply responded to question asked that the only accusations of bullying I was aware of at the time were made by (now) a former HTC employee who made a complaint he was bullied by senior members of staff'*

*'I was asked a question if I was aware of any formal complaints and gave [a] straight forward honest answer. I did not name anyone'*

Cllr Zarczynski denies that he disclosed confidential information. In his response he says;  
*'I hope you credit me with more intelligents to reveal confidential information as I totally reject the allegation.'*

*'I dispute the allegation that I divulged confidential information during a full council meeting.'*

**Background / facts:**

On 28<sup>th</sup> February 2020, the Complainant sent an open letter to Honiton Town Council which references bullying and the content of this letter became public information on the same day as it was subject to an article on the website of Honiton Nub News.

The Complainant submitted a complaint to the Monitoring Officer mid-June 2020 in relation to four members of Honiton Town Council which made allegations that various paragraphs of the Code of Conduct had been breached including (of specific relevance to this complaint) that there had been bullying. Cllr Zarczynski was one of the four councillors.

Following the submission, the Complainant wrote to all councillors of Honiton Town Council on 19<sup>th</sup> June stating *'It is with sadness that this week I submitted a detailed report on the behaviour of some members of Honiton Town Council. The behaviour of the four named members has led me to the conclusion that there is institutionalised bullying within Honiton Town Council.'*

On 17<sup>th</sup> July 2020, the four members who the complaint was against were formally notified by the Monitoring Officer that a complaint had been made against them (although the full detail was not provided at this stage) and that it was the Clerk at Honiton Town Council who had made the complaint.

At the end of July there is correspondence between the Complainant and Cllr Zarczynski where it is clearly understood between them that there are live complaints, although there is a difference between them as to whether 'official notification' had occurred.

On and around the 12<sup>th</sup> and 16<sup>th</sup> August 2020, there was social media activity including public posts by the Complainant and Cllr Zarczynski. The Complainant posted a comment referencing '*4 members the complaint is against*'. This was seen by one of the four councillors who the complaint was against and it is understood it was then shared by him with Cllr Zarczynski. Cllr Zarczynski also posted '*Yes I am aware of the recent bullying accusations made by those who are working to personal agendas to discredit the Council. I have been going through my e-mail archives and as yet have not come across any e-mails accusing me of bullying these accusations of bullying only started since the Town Clerk when on sick leave O dear how strange !!*'

On the 18<sup>th</sup> August 2020, the Complainant emailed Cllr Zarczynski (together with other councillors of HTC and others) which contained an explicit statement that there is a code of conduct complaint against Cllr Zarczynski (and others), which includes reference to bullying and also that the Complainant is aware that the four councillors had all been formally notified that there has been a complaint.

On 20<sup>th</sup> September 2020, there is an email from the Complainant's representative to Cllr Zarczynski which explicitly refers to complaints having been made by the Complainant. This is then forwarded to all Town Council members. Given the wording of the email, on 22<sup>nd</sup> September 2020, Cllr Zarczynski seeks confirmation from the Monitoring Officer as to whether the complaints are live, which, by reply on the same day, it is confirmed by the Monitoring Officer that they are still live.

On 4<sup>th</sup> November 2020, an update is sent from the Monitoring Officer to Cllr Zarczynski confirming that the complaint against him (and others) has been referred to an external body for Independent Investigation, which is stated as being an action open to the Monitoring Officer under the complaint process. On the same day, Cllr Zarczynski acknowledges receipt saying;

*'Thank you for updating me on complaint made by former HTC Town Clerk Mr Mark Tredwin.*

*I note your decision and I am thankful that I can finally defend myself against what I have reason to believe are vindictive and false allegations made against me that Mr Tredwin has widely publicised on Social Media'*

On 12<sup>th</sup> March 2021, East Devon's Standards Hearing Sub-Committee met to consider complaints made by three individuals against Honiton Town Councillor John Taylor. One of those complaints was made by Mr McCollum in which he alleges that he was subject to bullying. The complaint was submitted in July 2020 when Mr McCollum was employed by Honiton Town Council as the Town Development Manager. Cllr Taylor was assisted by Cllr Zarczynski at the hearing and on 12<sup>th</sup> March 2021 the Sub-Committee determined (*inter alia*) that Cllr John Taylor had bullied Mr McCollum. The meeting was live streamed and the decision notified on the day. Cllr Zarczynski was present when the Sub-Committee conveyed its determination – the gallery view shows him as present and it was also confirmed verbally by officers in attendance. The formal decision notice is dated 25<sup>th</sup> March and was uploaded to the Council's website on that date.

On 24<sup>th</sup> March 2021, the appointed Independent Investigator wrote to the four members to inform them of the complaint together with providing relevant detail on the allegations including that there was an allegation of bullying.

Cllr Zarczynski was present at a formal meeting of Honiton Town Council on 12<sup>th</sup> April 2021 and was the Chair of the meeting as recorded in the minutes.

The Minutes of the 12<sup>th</sup> April meeting record (as far as relevant) Cllr Zarczynski being asked the following question by a member of the public:

*'Cllr Zarczynski has consistently stated that there is absolutely no bullying at HTC despite several councillors resigning claiming bullying. He had watched a serving Town Councillor at a Standards Hearing Sub-Committee into alleged bullying by this Councillor. That Councillor's behaviour was found to be inappropriate and breached HTC's Code of Conduct in relation to a former HTC member of staff. The Councillor was also found to have not treated that employee with courtesy and respect and was found guilty, censored, asked to attend training and apologise to the former member of staff. Has this Councillor resigned or been asked to resign? If the Councillor refuses to do so, what do the other Councillors feel are the implications for them and the reputation of the Council?'*

Cllr Zarczynski is recorded as saying in response:

*'In all his time on the Council and during his time as Mayor he has never witnessed any bullying. There have never been any official complaints of bullying against a Councillor by a member of staff. The only complaint that came to him via official channels was from a junior member of staff against his line manager and an officer. That junior member of staff resigned, his resignation was not accepted, and the HR Committee met with him. Following the meeting the resignation was retracted on the basis that the bullying issues would be addressed.'*

*'Re other allegations of bullying, he categorically denies any bullying took place – instead HTC has been too understanding in the past and should have addressed issues sooner. Bullying is very fashionable at the moment especially from people who do not want to answer questions or have run out of questions – similarly stress at work. He has reviewed emails over 2 years and there were no official complaints or emails critical of Cllrs behaviour.'*

From February 2020 through to 23<sup>rd</sup> September 2020, the Complainant was employed by Honiton Town Council as their Clerk. On 23<sup>rd</sup> September 2020, the Monitoring Officer received notification that the Clerk had resigned.

Honiton Nub News has published a number of articles regarding the issue of councillor resignations / bullying in which Cllr Zarczynski is reported as commenting (cf to articles 18<sup>th</sup> February 2020, 6<sup>th</sup> June 2020 (x2), 8<sup>th</sup> June 2020 and 14<sup>th</sup> August 2020).

### **Reasoning:**

#### Capacity

Cllr Zarczynski attended the Honiton Town Council on 12<sup>th</sup> April as a councillor and was the Chair of the meeting. He was therefore acting in official capacity and therefore the Code of Conduct applied to his behaviour.

#### Bringing your office / the Council in to disrepute

Cllr Zarczynski is recorded in the minutes of the 12<sup>th</sup> April 2021 meeting as saying '[t]here have never been any official complaints of bullying against a Councillor by a member of staff', '[t]he only complaint that came to him via official channels was from a junior member of staff' and '[h]e has reviewed emails over 2 years and there were no official complaints or emails critical of Cllrs behaviour'. Cllr Zarczynski has not disputed the accuracy of what the minutes record him as saying.

The information in the 'Background / facts' section is not intended to be a complete assessment of all correspondence and actions between June 2020 to April 2021. It is also worth noting that there appears to have been a sustained period of time, primarily from February 2020 onwards, where allegations of bullying at Honiton Town Council have featured or played out in public both on social media and also on Honiton Nub News. Particularly in relation to the latter, Cllr Zarczynski does provide comment in some of the news articles where variously he refutes allegations and states that he was not aware of bullying. The public were reasonably aware of the prospect of complaints of bullying or that there were bullying concerns at Honiton Town Council not least due to the social media / press activity from February 2020 onwards and Cllr Taylor's standards hearing. It is entirely expected (and reasonable) therefore that the public should seek answers to concerns they may have. The fact that there is 'public knowledge' around the issue of bullying and also that Cllr Zarczynski has made statements about it is reflected in the question that was asked at the 12<sup>th</sup> April 2021 meeting.

From the information available it is therefore clear that there was public knowledge about concerns being raised over bullying since at least February 2020 following the open letter from the Clerk and the subsequent press reporting. The submission of a complaint was notified to all councillors directly by the Complainant on 19<sup>th</sup> June 2020. Cllr Zarczynski was formally notified by the Monitoring Officer of the complaint on 17<sup>th</sup> July 2020. Subsequent correspondence through August, September and November all involving Cllr Zarczynski clearly shows discussions around there being live complaints and also that this includes an allegation of bullying.

The correspondence from Cllr Zarczynski in relation to the June 2020 complaint also reinforces the point that the information was in the public domain and more specifically that he was aware of this and the complaint by the Complainant - *cf* to his comment in November 2020 about the '*vindictive and false allegations made against me that Mr Tredwin has widely publicised on Social Media*'.

It might be argued that Cllr Zarczynski had not received all of the detail about the complaint so that at the April meeting he didn't know that there was a formal complaint, by a member of staff (whether former or not) and that it involved allegations of bullying. However, such an argument is rejected given the information referred to generally in the foregoing. In addition, and most significantly;

- (1) Cllr Zarczynski assisted Cllr Taylor at his March 2021 standards hearing in relation to the complaint against him by Mr McCollum (and others) that he had bullied an employee (Mr McCollum) and was present when the committee determined that Cllr Taylor had bullied Mr McCollum, and
- (2) On 24<sup>th</sup> March 2021, Cllr Zarczynski is sent the formal correspondence from the Independent Investigator which again confirms the complaint by the Complainant and the detail of the allegations including that of bullying.

So it is clearly known by Cllr Zarczynski at this point that there are allegations that Councillors have bullied employees. Indeed, as far as Cllr Taylor is concerned, it had been proven through the Standards process. By this time it is approximately only three weeks before the 12<sup>th</sup> April 2021 meeting.

It is my view that when Cllr Zarczynski made his comments at the 12<sup>th</sup> April 2021 meeting, he was fully aware of the ongoing complaint made by an employee (the Complainant) alleging bullying against him, and on balance that it was also against three other councillors. The Complainant was an employee when he made the complaint and in my view it is not relevant that he was not an employee when Cllr Zarczynski made the comment. The crucial point is that there had been a complaint of bullying by a member of staff who was a member of staff when it was made. Further, when making the comment,

Cllr Zarczynski was fully aware that Cllr Taylor had just been found to have bullied Mr McCollum, who was an employee.

While Cllr Zarczynski says his answer was honest, in light of the information above, this cannot be accepted. It is my view that Cllr Zarczynski was at best reckless or worse that he lied when answering the question at April's meeting.

Cllr Zarczynski's approach to the answer may have been driven because of his previously stated positions as reported in the media but unfortunately that position was at odds with the actual position. Given this, Cllr Zarczynski could have said that it would not be appropriate to comment but he didn't, he chose to represent a situation that was false in relation to '*there being no official complaints of bullying against a councillor by a member of staff*', that '*the only complaint that came to him via official channels was from a junior member of staff*' and that '*having reviewed emails over 2 years, there is no official complaints or emails critical of Cllrs behaviour*'. He had no reasonable basis to make these claims as he did.

Whatever his reason for misportraying the situation, given the specific question posed at the meeting I consider that it is highly probable that what Cllr Zarczynski was doing was trying to deliberately deflect from accusations of bullying against Honiton Town Council's Members. His answer flew in the face of information widely known in the public domain as well as information that wasn't but which he was aware of.

Cllr Zarczynski is the Chairman of the Council / Mayor and therefore is the most prominent and senior Councillor. He references himself as the Mayor in the response to the question.

A councillor's behaviour in office will bring their office into disrepute if the conduct could reasonably be regarded as either:

- 1) Reducing the public's confidence in that member being able to fulfil their role; or
- 2) Adversely affecting the reputation of members generally, in being able to fulfil their role

A councillor's behaviour in office will bring the authority into disrepute where the behaviour reduces public confidence in the Council's ability to fulfil its functions and duties.

In my view Cllr Zarczynski, in knowledge of the Cllr Taylor finding, the fact that there was a complaint against him alleging bullying (and on balance that it was against three other councillors too) and also that there was information to that effect in the public domain, sought to portray a different picture publicly which he knew to be false. He did so as the Chairman of the Council / Mayor and this is therefore an action reflecting on his role and also the Council. It is my view that the reasonable person will consider that the behaviour will have the effect of lowering confidence in his ability to carry out his role and, given the specific role of Chair, it is also likely to impact adversely on the ability of the membership to fulfil their roles as well as reduce the confidence in the Council as a whole to operate effectively. As such, he has conducted himself in such a manner or behaved in such a way that the reasonable person would have the impression that he has brought his office and, separately, the Council into disrepute.

Accordingly there is sufficient evidence of a breach of paragraph 5(h) of the Code of Conduct.

#### Confidentiality

Generally speaking Honiton Town Council only provides the barest of detail in terms of individual employment matters when publishing agendas for meetings and the matters themselves are on the whole considered in Part B (private) session. It is considered that the statement that there was a bullying complaint by '*a junior member of staff against his*

*line manager and another officer* and that the *'junior member of staff resigned'* is confidential information. Information such as that disclosed has the potential to be damaging and this is all the more acute when there is only a small number of staff employed as it means identification of individuals is all the more likely.

Honiton Town Council's Bullying and Harassment Policy and (what is understood to be) the current Grievance Policy variously reference keeping matters raised under them as confidential as far as possible. Although a more historic Grievance Policy (available on the website) doesn't reference confidentiality, had the matter been dealt with under that policy then it is considered that Cllr Zarczynski ought reasonably to be aware that such information was confidential or should be treated in confidence.

However he does not provide any reason why this particular information was shared in the public part of the meeting. Equally he does not argue or indeed provide any evidence to demonstrate that Honiton Town Council had authorised that that information could be made public nor that there is any permission from the parties involved to do so.

By disclosing in a public meeting that there was bullying by *'a junior member of staff against his line manager and another officer'* and that the *'junior member of staff resigned'*, it is my view Cllr Zarczynski disclosed information that was given in confidence or which he ought to reasonably be aware was confidential.

However, paragraph 5(f) is not absolute and does permit disclosure in certain circumstances. These exceptions are;

- (i) that you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purposes of obtaining professional advice provided that the third party agrees not to disclose the information to any other person;
- (iv) the disclosure is –
  - (a) in the public interest, and
  - (b) made in good faith, and
  - (c) in compliance with the reasonable requirements of the Council.

None of (i) – (iii) are considered to be applicable and Cllr Zarczynski has not sought to argue that they are or provided any evidence suggesting they might be.

In relation to (iv), it is my view that this was not done in the public interest - given the purpose the disclosure was used for (see the conclusions above in the section on 'Bringing your office / the Council in to disrepute') – but even if it could be argued that it was, it is my view that it was not made in good faith. Again, given my comments above, my view is that it was disclosed with the intent of deflecting accusations in relation to member bullying. As it was untrue, and I do not believe it was an 'honest' answer, it was not made in good faith. It is unknown whether the disclosure was made with the reasonable requirements of the Council, although given that this was made in a public meeting in an answer to a question asked by a member of the public it is difficult to see how the reasonable requirements of the Council could have been established prior to disclosure.

In my view Cllr Zarczynski has disclosed information that was given in confidence or which he ought to reasonably be aware was of a confidential nature and none of the exceptions to this disclosure apply.

Accordingly, there is sufficient evidence of a breach of paragraph 5(f) of the Code of Conduct.

Conferring an advantage / disadvantage

It is not considered that paragraph 5(a) of the Code of Conduct is engaged on the facts and therefore there can be no breach of this paragraph of the Code of Conduct.

Intimidating a witness

It is not considered that paragraph 5(d) of the Code of Conduct is engaged on the facts and therefore there can be no breach of this paragraph of the Code of Conduct.

Courtesy and respect

It can be understood why someone would argue that by essentially denying his complaint that he was not being treated respectfully but I don't consider that this is sufficient to cause a breach of paragraph 4(a) in that it wasn't directly involving or publicly about the former Clerk. He wasn't at the meeting and wasn't named.

Accordingly, there is insufficient evidence of a breach of paragraph 4(a) of the Code of Conduct.

Freedom of speech

Cllr Zarczynski's comments are statements of fact and it is considered that they were not made in good faith nor is there a reasonable basis for saying them, indeed they are demonstrably false. Accordingly they do not benefit from Article 10 protection (*cf to Heesom*).

Summary

The behaviour of Cllr Zarczynski did not amount to a breach of paragraph 4(a), 5(a) and 5(d). However it does result in a breach of paragraphs 5(f) and 5(h).

**Independent Person's view:**

*Running through all of this is the need for Councillor Zarczynski to be demonstrably clearer in his responsibilities both as a Councillor and Mayor. Both roles have responsibilities and people have high expectations.*

*Particularly in those roles he has access to sensitive information and this mustn't be mis-used directly or implied by inference. He needs to be more considered and measured, whatever the environment. This would in turn give him more authority, including when under pressure.*

*In the context of this complaint, he leaves himself open to complaints given the nature and implications of his statement and, I should say, his response to the complaint.*

*So in terms of your findings I agree that Councillor Zarczynski is in breach of Honiton Town Council's Code of Conduct 5(f) and 5 (h).*

*I have some concerns about his perceived behaviour in respect of 4(a). This is not as clear cut. It could be argued to apply by inference but with no direct reference I do not see this as a breach. However my point about Councillor Zarczynski being seen to be clear on his responsibilities as both Mayor and Councillor applies. So in not finding a breach it might be worth a reminder on this point.*



**Decision:**

Having considered the views of the Independent Person and for the reasons given above, I therefore find that Cllr Zarczynski;

- Did not breach paragraph 4(a), 5(a) and 5(d) of Honiton Town Council's Code of Conduct,
- Brought the role of councillor, his role as the Chair and Honiton Town Council into disrepute and has therefore breached paragraph 5(h) of Honiton Town Council's Code of Conduct,
- Disclosed information given in confidence or which he ought to reasonably be aware was of a confidential nature and therefore has breached paragraph 5(f) of Honiton Town Council's Code of Conduct.

**Sanction (if applicable):**

In light of the circumstances, an appropriate sanction is a full public apology given in the public session of a Town Council meeting of Honiton Town Council together with censure. The wording of the apology to be first agreed with the Monitoring Officer.

Issued by Monitoring Officer on: 3<sup>rd</sup> December 2021