



## Standards Decision Notice

Case: 2021/C22

**Subject Member:** Cllr John Taylor  
**Authority:** Honiton Town Council  
**Complainant:** Carla Salisbury

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

The allegation is that at the 11<sup>th</sup> October 2021 Honiton Town Council meeting, Cllr Taylor made comments about Cllr Sexton's former employment and referenced allegations made 10 years ago that 200+ employees had been bullied by Cllr Sexton. Cllr Taylor was seen laughing and rubbing his hands together having said this. Later in the meeting as Cllr McNally was leaving Cllr Taylor stated a member of the public's husband "*has already got the Police against him*".

### **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**  
(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 Taylor has responded and his points (where they are relevant) can be summarised as follows;

- He confirms that his comments were in relation to Cllr Sexton. He says that Cllr Sexton raised a topic that was not on the agenda, namely it did not relate the previous minutes. He argues that Cllr Sexton sought to introduce a '*Matters arising*' and Cllr Sexton introduced the word bullying. Having done so he considered that the Council would wish to be advised as to the background of Councillor Sexton that impacted on the topic that she had improperly raised in open public debate of Honiton Town

Council and as she had referenced her previous employment in relation to her election as a councillor and in her role on Honiton Community Complex.

- In relation to the laughing and rubbing of hands. He says rubbing hands was on advice of a medical professional to reduce physiological response in his previous employment. He often does this. He says he also often smiles or laughs and likens this to what he sees in other places of democratic debate.
- He agrees he made the statement about the member of public's husband but can't confirm the specific wording and says the allegation lacks contextual evidence. In this regard he refers to Cllr McNally being driven from the 13<sup>th</sup> September meeting due to the '*appalling behaviour*' of four other councillors. The member of the public's husband then followed Councillor McNally out of the room where, it is alleged, an incident occurred that is purportedly subject to Police investigation.
- That a councillor's responsibility under the Code of Conduct can conflict with duties as described in the Good Councillors Guide, which he says is based on '*statute law*'. This appears to be reference to the comment in the guide Cllr Taylor refers to elsewhere in the letter which is that '*the prime duty of a Councillor is to protect public monies*'. He says that the code is taken in isolation but it cannot be and that '*statute law overrides it and requires duties of him*'.

#### **Background / facts:**

The minutes of the 13<sup>th</sup> September 2021 Council meeting records the following (under Item 21/172);

*'In view of the above Cllr McNally advised that she was resigning from the Council. Cllr McNally left the meeting at 20.06pm.'*

On 21<sup>st</sup> September 2021, there is an email from the Clerk to all councillors confirming that no notice of written resignation had been received from Cllr McNally.

Cllr Taylor is recorded as present at the formal meeting of 11<sup>th</sup> October 2021 of Honiton Town Council.

The following is recorded in the minutes of the 11<sup>th</sup> October 2021 meeting on Item 21/195 (approval of the 13<sup>th</sup> September 2021 meeting minutes);

*'Cllr Sexton queried whether Cllr McNally had resigned from the Council as stated verbally at the meeting on the 13th September 2021.*

*Cllr McNally responded saying that she had provided the Town Clerk with a statement and would not be making any further comment.*

*Cllr Sexton noted that since her first Council meeting in June 2021, Cllr McNally had on two occasions left a Council meeting, and requested an assurance from Cllr McNally that she would not do so in future, as such behaviour brought the Council into disrepute.*

*Cllr McNally objected to the allegation that she had brought the Council into disrepute and accused Cllr Sexton and others of bullying her.*

*Cllr Zarczynski objected to the allegation that Cllr McNally had brought the Council into disrepute and accused Cllr Sexton and others of bullying Cllr McNally.'*

It is reported that the exchange between Cllr Sexton and Cllr McNally was dealt with politely and respectfully, following this the meeting becomes more acrimonious such that the Chair adjourns the meeting. It is understood the meeting was still live streamed during the adjournment, although it is possible that the audio was not working very well.

A video recording from the complainant has been provided showing what happened for part of the adjourned period;

- (1) Following an exchange between the Chair and Cllr Sexton in relation to claims of bullying of Cllr McNally, Cllr Taylor asks whether he can *'give some information'*. That information is the following comment *'I understand that 200 plus employees did accuse a given Councillor of bullying 10 years ago, but then maybe prison officers don't know what they are doing'*. Cllr Taylor after saying this can be seen sitting back in his chair and drinking from a glass of water. He has a neutral expression but as he refills his glass he can be seen looking across the room towards Cllr Sexton putting on a smile and then rubbing his hands together.
- (2) Cllr Sexton asks for a right of reply. She says that Cllr Taylor is seeking to refer to something that happened in her working life and that Cllr Taylor has never asked her opinion on it. She goes on to say that she was never *'accused, or convicted, of bullying'*.
- (3) Cllr Hurford states that the discussion around Cllr Sexton's previous employment has nothing to do with the Council.
- (4) Shortly after Cllr McNally leaves the meeting and as she does she points into the public gallery and says *'leave me alone, leave me alone'*. Cllr Taylor, escorting her out, says *'forget her, her husband already has the Police against him.'*

Cllr Sexton says she was not aware of any email concerning Cllr McNally's resignation before the meeting on the 11<sup>th</sup> October. She notes that the 13<sup>th</sup> September meeting was the second time Cllr McNally had resigned and left *'shouting at both the councillors and at the members of the public who were present'*. Cllr Sexton says she asked the question about her providing a statement to explain her position as a consequence of this. She says *'I was confused as to whether she had resigned or not and I assumed others would have been interested in her response to the question, although this had not been discussed. I was just surprised to see her at the meeting. She also says '[i]n the circumstances I felt that it was a perfectly reasonable question to ask, in light of the fact that I had no other information'*.

### **Reasoning:**

#### Preliminary matter

As a preliminary matter, Cllr Taylor seems to suggest that the obligations in the Code of Conduct are secondary to the Good Councillor Guide if a conflict arises between them. He does not identify in relation to this complaint what the conflict is or even the duty in the Good Councillor Guide which is relevant to this case and which he says should be preferred over the Code of Conduct. Irrespective, his assertion is incorrect as a matter of law and this point is not considered further.

#### Capacity

Councillor Taylor attended the 11<sup>th</sup> October meeting as a councillor and therefore he was acting in official capacity and the Code of Conduct applied to his behaviour.

### Courtesy and respect

The LGA Guidance on their Model Code of Conduct in relation to respect and disrespectful behaviour says;

*'Rude, offensive, and disrespectful behaviour lowers the public's expectations and confidence in its elected representatives'*

*'Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another.'*

*'Disrespectful behaviour can take many different forms ranging from overt acts of abuse or disruptive or bad behaviour to insidious actions such as bullying and the demeaning treatment of others.'*

*'Examples of disrespect in a local government context might include...attempts to shame or humiliate others in public...'*

*'Disrespectful behaviour can be harmful to both you and to others. It can lower the public's expectations and confidence in you and your local authority and councillors and politicians more generally.'*

Cllr Taylor accepts his comment was about Cllr Sexton and clearly he intended everyone to hear it as he wanted the Council to be appraised of Cllr Sexton's background. The audience was other Councillors, Council staff and also members of the public (in attendance at the meeting or watching via the live stream).

While Cllr McNally's position as a councillor was not a specific agenda item, it could be argued that it was a fair question to ask given the statement in the previous minutes and given Cllr McNally's attendance at the 11<sup>th</sup> October meeting. The Clerk's email of 21<sup>st</sup> September simply informed members that written notice of resignation had not been received at that time. It does not actually provide any clarity as to Cllr McNally's position or intentions. Therefore to all intents and purposes Cllr McNally's last stated position was that she was resigning. Cllr Sexton explains that she was not aware of any email concerning Cllr McNally's resignation before the meeting of the 11<sup>th</sup> October and therefore, given what had gone before, asked for clarity over Cllr McNally's situation for her own benefit and for the benefit of others (presumably other councillors and the public) given the lack of information. While it might be argued by some that Cllr Sexton raised it in a pointed way or with a specific purpose - the comment regarding Cllr McNally bringing the council into disrepute by her actions might arguably support such a view - the exchange was polite and respectful and on balance raising the issue is not considered to be inappropriate of itself.

Whether or not Cllr Taylor agrees with what Cllr Sexton did (namely introducing what he describes as *'matters arising'* and asking the question about Cllr McNally's attendance at the meeting), he then refers to something that happened in Cllr Sexton's life before becoming a councillor and some 10 years prior. His statement is highly critical of Cllr Sexton as it effectively says that 200+ prison officers accused her of bullying and further implies that there must be truth to it as 200+ prison officers can't be wrong. It is made when members of the public, officers of the Council and other councillors could hear.

His statement is not in any way relevant to the issue that Cllr Sexton was raising regarding Cllr McNally and more specifically Cllr Taylor confirms that it wasn't just because of the question about Cllr McNally but also because Cllr Sexton had referenced her previous employment in relation to her election as a councillor and her role at Honiton Community

Complex. He did not seek to discuss the matter with Cllr Sexton first to obtain any understanding about what the circumstances were prior to making his public comment. Rather he relied solely on what (presumably) he had found. Clearly to have found the information would have necessitated a degree of investigative work given the period of time elapse since it occurred and also that Cllr Sexton was known by a different name.

I do not consider that Cllr Taylor's claim that he thought the Council might want to know is a legitimate reason to comment as he did. Cllr Taylor is an experienced councillor and will have appreciated that the comment was not relevant to the issue raised and by his own admission was in part made because of his views about what was said by Cllr Sexton during her election and in relation to her role on Honiton Community Complex. Rather I consider that it was intended to cause harm; by shaming or humiliating Cllr Sexton and / or because it would be demeaning and adversely affect her reputation as a Councillor. His demeanour of leaning back with a neutral expression and then leaning forward and smiling at Cllr Sexton and rubbing his hands would suggest that this was deliberate. When taken together with the reasons given by Cllr Taylor for commenting, it reinforces that this was said deliberately with the intent to cause damage. Had it not been so, he would have spoken to Cllr Sexton about it beforehand and / or dealt with the matter outside of the public domain. He didn't, he chose to make highly critical and damaging remarks about another councillor in public.

While Cllr Taylor says that the rubbing of his hands is a way of reducing a physiological response, to the extent that it might be argued as being necessary for that purpose, it was only necessary as a consequence of his own actions. Irrespective of why, it doesn't detract from the perception created as seen on the video.

As the statement was highly critical and also because it was intended to cause harm either directly in relation to Cllr Sexton or to her reputation, it was inappropriate for Cllr Taylor to have made the statement and in so doing it did not treat Cllr Sexton with courtesy and respect.

Turning to the comment as Cllr Taylor left with Cllr McNally. Cllr Taylor accepts he said this and has given the context for it. The comment was made to Cllr McNally but was said loud enough for the public to hear. It is accepted that there are matters affecting Cllr McNally (*cf* to the Police involvement) and I do not seek to downplay or underestimate them. However, those issues affect Cllr McNally not Cllr Taylor. So while there is a context, making such a comment about a member of the public's husband is inappropriate. It may be accurate and it may be argued as having been said to reassure Cllr McNally. However, in either case it does not justify a councillor saying such a comment to a wider public audience who are unlikely to be aware of the circumstances. It was personal and unwarranted and Cllr Taylor must have known, or ought reasonably to be aware, that saying such a comment would have the effect of shaming and / or humiliating the member of public concerned and would be demeaning. It was disrespectful. For the same reason, it was also disrespectful to the husband of that member of the public.

It was inappropriate for Cllr Taylor to have made the comment and in so doing it did not treat the member of the public or her husband with courtesy and respect.

#### Disrepute

The LGA Guidance on their Model Code of Conduct in relation to disrepute says;

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

*1) reducing the public's confidence in them being able to fulfil their role; or*

2) *adversely affecting the reputation of your authority's councillors, in being able to fulfil their role.'*

*'Conduct by a councillor which could reasonably be regarded as reducing public confidence in their local authority being able to fulfil its functions and duties will bring **the authority** into disrepute.'*

As is noted above (in Courtesy and respect), disrespectful behaviour lowers the public's expectations and confidence in its elected representatives, the local authority and councillors. Behaviours that are intended to cause harm to another and which are witnessed by the public will likely exacerbate the effect of lowering confidence in a councillor being able to carry out their role. Where there is a personal attack which is likely to affect relationships within the Council going forward, it is also likely to impact on the confidence in the Council as a whole to operate effectively. Cllr Taylor is an experienced councillor who should understand the need to behave appropriately and the potential impact of not doing so. He made his comments in knowledge that it was not relevant to the matter and made them for a particular purpose. His behaviour in this case also sits against a background of public concern already in relation to the ability of Honiton Town Council to operate effectively (*cf* to the recent Community Governance Petition as but one example). Behaviour such as this will simply reinforce public's concerns and it is made worse when it is caused by an experienced councillor.

It is considered that the reasonable person's view of Cllr Taylor's actions in relation to both incidences, is that they would reduce the public's confidence in his ability to fulfil his role and adversely affect the member's ability to fulfil their role and also reduce public confidence in the Council's ability to fulfil its functions and duties. The behaviour therefore brings his office and the Council into disrepute.

#### Freedom of speech

It is not considered that either of the comments were made during the course of political debate nor were they political expression. Rather they were deliberate personal criticisms intended to be hurtful / harmful aimed at another Councillor and / or a member of the public. As such the comments do not benefit from Article 10 protection. In any event the legitimate aim of protecting the reputation of Cllr Sexton and the member of the public would outweigh any protection to the freedom of expression rights that Cllr Taylor might have.

#### Summary

The behaviour of Cllr Taylor in relation to the comments about Cllr Sexton and the member of the public's husband is sufficient to amount to a breach of the code of conduct under paragraphs 4(a) and 5(h).

#### **Independent Person's view:**

*I have reviewed the draft decision notice and the supporting evidence as well as the original complaint.*

*I am in agreement with your findings of breaches of the Code Of Conduct by Cllr Taylor.*

#### **Decision:**

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

- Did not treat Cllr Sexton with courtesy and respect and has therefore breached paragraph 4(a) of the Code of Conduct,

- Did not treat the member of the public with courtesy and respect and has therefore breached paragraph 4(a) of the Code of Conduct,
- Brought the role of councillor and / or Honiton Town Council into disrepute and has therefore breached paragraph 5(h) of the Code of Conduct.

**Sanction (if applicable):**

In light of the circumstances, an appropriate sanction is;

- A written apology to Cllr Sexton
- A written apology to the member of the public whose husband was referred to
- A public apology to be given in the public session of a Town Council meeting of Honiton Town Council
- Censure

The wording of all three apologies to be first agreed with the Monitoring Officer.

In the event that Cllr Taylor does not comply the requirement to apologise within one month of the final disposal of the matter, the Monitoring Officer will reconsider the matter as to whether any alternative sanction should be imposed / recommended to Honiton Town Council to impose.

Issued by Monitoring Officer on: 19<sup>th</sup> December 2021