



Standards Decision Notice

Case: 2021/C24

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

Brief statement of allegation:

The allegation is that at the Honiton Town Council meeting on 11th October 2021, when Cllr Sexton was seeking confirmation of whether Cllr McNally had resigned or not Cllr Zarczynski shouted abuse, was completely out of control and not chairing the meeting competently and accused Cllr Sexton of being a bully more than once.

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 Zarczynski has responded to the complaint and in summary he says that;
- He rejects the allegations made.
 - He was not out of control when he attempted to stop Cllr Sexton introducing / asking a question of Cllr McNally that was not an agenda item.
 - Cllr Sexton ignored him and persisted in an attempt to intimidate Cllr McNally, who was defending herself against a clearly pre-orchestrated agenda to intimidate and bully her.
 - Cllr Hurford intervened and ignored the Chairman's request to only speak when invited.
 - The behaviour of Cllr Hurford and Cllr Sexton left him with no alternative but to suspend the meeting until order was restored.

- The harassment and disruption of meetings has continued by a selective group of Honiton Forward elected councillors.
- There was an HTC street market superintendent present at the meeting as a security measure following physical / verbal attack on Cllr McNally at the previous meeting.
- The Police are now involved in relation to the harassment / attacks / bullying of Cllr McNally.

Background / facts:

The Minutes of the 13th 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 21st 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 Zarczynski is recorded as present at the formal meeting of 11th October 2021 of Honiton Town Council.

The following is recorded in the minutes of the 11th October 2021 meeting on Item 21/195 (approval of the 13th 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) The video shows that whilst the Chair seeks to get the adjourned meeting reconvened he effectively continues to Chair it as a meeting and is asked and gives permission for councillors to speak.
- (2) He addresses Cllr Sexton on the point she has raised saying if she wishes to pursue it then it should be an agenda item for the next meeting and then he says

that Cllr Sexton *'should not disrupt this meeting with yet more harassment and bullying of Cllr McNally'*. He refers to the matter having been referred to the Police.

- (3) Cllr Sexton responds saying she *'doesn't take very kindly to being told that I am a bully'* to which Cllr Zarczynski responds saying *'you are'* and *'that is clear bullying that is, clear bullying'*.
- (4) A member of the public can be heard saying *'his tone of voice needs to...'*.
- (5) Cllr Sexton explains why she feels she is entitled to ask the question and there is then a commentary by Cllr Zarczynski regarding the process for effecting a resignation. He says that if any Councillor has an issue then they should contact the Clerk and ask to read the explanation given by Cllr McNally.
- (6) Following an exchange between Cllr Taylor and Cllr Sexton where Cllr Taylor raises Cllr Sexton's previous employment, Cllr Hurford states that the discussion around Cllr Sexton's previous employment has nothing to do with the Council. Cllr Zarczynski reiterates his view that Cllr McNally is being bullied. Cllr Hurford challenges his authority to make that comment and Cllr Zarczynski replies saying *'I am making it my own personal statement'*. Cllr Hurford continues criticising the Chair for not leading by example. Cllr Taylor can be seen, waving his hand at the chair in what looks like a 'calm down' gesture.

Cllr Sexton says she was not aware of any email concerning Cllr McNally's resignation before the meeting on the 11th October. She notes that the 13th 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'*.

Cllr Zarczynski has been the subject of a number of motions relating to his position as Chair, including a 'vote of no confidence' on 17th June 2021 and a related motion at 15th July 2021 meeting.

Reasoning:

Capacity

Cllr Zarczynski was present at the meeting as a councillor and as the Chair of the meeting. 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 rude or angry outbursts in meetings ...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 Zarczynski does not deny making the comments and clearly his explanation reiterates his views on the matter. Ultimately, because of what he perceived as unacceptable behaviour towards Cllr McNally he says he was justified in his actions and behaviour. The wider concerns around disruptive behaviour of certain councillors seems to be used to further justify his actions / behaviour.

The audience for what happened 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 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 11th October meeting. The Clerk's email of 21st 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. That email was a couple of weeks prior to the 11th October meeting. 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 11th 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 (indeed Cllr Zarczynski does) 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. It is what follows that is at issue.

The meeting seems to descend fairly quickly into raised voices and accusations being made by a number of councillors. The Chair adjourned the meeting in order to restore order. This was an appropriate step to take as it would allow councillors to calm down and to bring emotions under control before restarting the meeting. However the public remained in the room and (it is believed) the live stream continued. This meant that the public were able to continue to observe, and indeed video, what subsequently happens. Cllr Zarczynski continues to chair the meeting in the sense of being asked for and giving permission for councillors to speak. There is little to distinguish between the formal part of the meeting and the adjourned part.

Following the meeting adjourning, both the Clerk and the Chair reiterate that the item is to approve the accuracy of the minutes of the previous meeting and nothing else. This advice is correct and appropriate.

However, Cllr Zarczynski, in a fairly strident tone, then makes a direct criticism of Cllr Sexton implying she is disrupting the meeting with harassment and bullying of Cllr McNally. Cllr Sexton responds in a very measured way saying she doesn't take kindly to

being told she is a bully. At this point Cllr Zarczynski responds aggressively saying 'you are' and 'that is clear bullying that is, clear bullying'.

This is a direct allegation / criticism against Cllr Sexton said in an angry tone the Chair of Council in public and is demeaning towards her.

The Chair then seeks to deal with various issues raised by members. As part of this, he reiterates his view that Cllr McNally is being bullied and is drawn into a disruptive debate with Cllr Hurford regarding his comment in which Cllr Hurford criticises his leadership. In that exchange he makes it clear that he is giving his personal view on the matter. Cllr Taylor can be seen making 'calm down' motions to Cllr Zarczynski. This, taken with the comment made by the member of public about the Chair's tone, is reflective of how Cllr Zarczynski's actions are being perceived by some in the room at the time.

It is accepted that there are clearly underlying issues at Honiton Town Council and more specifically matters affecting Cllr McNally (cf to the Police and comments made by Cllr Zarczynski) and these are not downplayed or underestimated. However, in what was a public forum (irrespective of the meeting having been adjourned) the direct criticisms of Cllr Sexton by the Chair, repeated in the interaction with Cllr Hurford, said in an angry tone were inappropriate and unwarranted – they were personal criticisms of Cllr Sexton and were demeaning. It was not an acceptable response to what was, on the face of it at least, not an unreasonable question to ask. Cllr McNally answers the question calmly and at that point it should have been possible for the Chair to move the meeting on without allowing it to descend into personal criticisms and more specifically being an instigator of them during the adjourned part of the meeting. Those actions run contrary to the reason he adjourned the meeting as it perpetuated the lack of order. In essence Cllr Zarczynski allowed his own personal views to take over in the way he handled the meeting and more specifically in relation to the comments he made.

It was not acceptable for him to make the demeaning comments about Cllr Sexton and it did not treat her 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 has been said, there is no clear distinction in the role of the Chair between the formal part and adjourned part of the meeting. Whilst chairing the adjourned part of the meeting, and with the public and officers in attendance, Cllr Zarczynski made direct accusations (more than once and one of them aggressively) to Cllr Sexton that she was bullying Cllr McNally. He also entered more heated discussions with Cllr Hurford regarding the issue, effectively making it known that it was his personal view that Cllr Sexton was bullying Cllr McNally and further perpetuated the behaviours and lack of order that led to him adjourning the meeting in the first place. Cllr Zarczynski states that the '*disruption of meetings has continued by a selective group of Honiton Forward elected councillors*' and, together with the specific motions in relation to his role, no doubt explains Cllr Zarczynski's

approach at times and why he responds to Cllr Sexton and Cllr Hurford in this meeting as he does. However, and while he may feel justified, this does not excuse unacceptable behaviour particularly from the Chair of the Town Council. Even in the context of the underlying issues, there are ways and means to deal with matters and becoming verbally aggressive and making personal criticisms is not the right way and equally it prevented order from being properly restored.

It is considered that the actions / behaviour of Cllr Zarczynski in front of the public of;

- Initiating accusations against Cllr Sexton of harassment and bullying during the adjourned part of the meeting and then repeating the accusation of bullying in an aggressive tone;
- Allowing himself to become embroiled in a discussion with Cllr Hurford about his personal views that Cllr Sexton is bullying whilst Chairing the meeting and preventing order from being properly restored;

will have the effect of lowering confidence in his ability to carry out the 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. The behaviour in this case also sits against a backdrop 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 simply reinforces that public concern.

Otherwise than where it forms part of the consideration of the other aspects of this complaint, the general approach to chairing was not considered to be unacceptable.

It is considered that the reasonable person's view of Cllr Zarczynski's actions in this meeting would be that it reduces the public's confidence in his ability to fulfil his role and adversely affect the membership's ability to fulfil their role and also reduce public confidence in the Council's ability to fulfil its functions and duties. It is therefore considered that Cllr Zarczynski has brought his office and the Council into disrepute.

Freedom of speech

It is considered that the comments were not made during the course of political debate and were not political expression. Rather it was personal anger and criticisms aimed at another Councillor. As such the comments do not benefit from Article 10 protection. In any event the legitimate aim of protecting the reputation of Cllr Sexton outweighs any protection of freedom of expression rights that Cllr Zarczynski might have.

Summary

The behaviour of Cllr Zarczynski in the meeting and in relation to Cllr Sexton 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 Zarczynski.

Decision:

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

- Did not treat Cllr Sexton 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 public apology to be given in the public session of a Town Council meeting of Honiton Town Council
- Censure

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

In the event that Cllr Zarczynski 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: 19th December 2021