



Restricted Investigation - Provision of Investigating Officer (Councillor Code of Conduct Complaints)

Final Report

Borough Council of Pendle

Investigating Officer: Kevin Howells

Reference: AFS-01-23/24

Date of Issue: 20th July 2023

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1 Report Distribution

This report has been compiled and issued solely for the consideration of the intended recipients named below.

Name	Position
Sarah Cockburn-Price	Subject Councillor
David Whipp	1 st Complainant Councillor
Tom Whipp	2 nd Complainant Councillor

2 Reporting Control

Report Issue Date	Report Author	Report Reviewer
20/07/2023	Kevin Howells / MIAA Manager	Paul Bell / MIAA Senior Manager

3 Acknowledgement and Further Information

MIAA would like to thank all relevant staff for their co-operation and assistance in completing this investigation.

If you have any queries regarding this report or its contents, please contact the Investigating Officer or Engagement Lead. To discuss any other issues, please contact the MIAA Regional Assurance Director (Anti-Fraud and Investigation Services) at MIAA HQ on 0151 285 4500.

4 Introduction and Investigation Background

- 4.1. The Borough Council of Pendle ('Pendle BC') required the provision of an independent, external Investigating Officer to conduct two formal Members' Code of Conduct investigations:
 - 4.1.1. An investigation into a complaint allegation from Councillor David Whipp, that Councillor Sarah Cockburn-Price, made a disrespectful remark to himself, contrary to the code, during a Special Budget Policy and Resources Committee meeting on 9th February 2023. It was alleged that, during the meeting, Councillor Cockburn-Price called Mr Whipp 'a misogynist'.
 - 4.1.2. An investigation into a complaint allegation from Councillor Tom Whipp, that Councillor Sarah Cockburn-Price made a comment at a full Council meeting on 23rd March 2023 implying sexism on the part of Councillor David Whipp, contrary to the code of conduct requiring members to treat fellow members with respect.
- 4.2. MIAA's Anti-Fraud and Investigations Service has been requested by the Council's Monitoring Officer/ Head of Legal Services (Mr Howard Culshaw) to provide an independent Investigating Officer to conduct the necessary enquiries and interviews, in accordance with the document entitled: 'Arrangements for dealing with allegations of breaches of the Code of Conduct for Councillors'.
- 4.3. The principal objective of the engagement was to conduct an independent investigation into each allegation, in accordance with Council policy and procedures, and make findings, on balance of probability basis, as to whether or not there had been a failure on the part of Councillor Cockburn-Price to comply with the Members' Code of Conduct.

5 Executive Summary

- 5.1. The Investigating Officer reviewed the "Code of Conduct for Members" and "Arrangements for dealing with allegations of breaches of the Code of Conduct for Councillors" to ensure the appropriate process was followed; which has been the case.
- 5.2. The Investigating Officer attempted to speak to eight witnesses who were attendees at either one or both of the meetings where the alleged breaches occurred (7 Councillors plus one Council officer) via Microsoft Teams, and with the Complainants and the Subject Councillor. Three Councillors either did not engage with the process or did not attend the arranged meetings, including the Complainant (Councillor Tom Whipp) on behalf of Councillor David Whipp for the complaint relating to the full Council Meeting on 23rd March 2023. The witnesses were:
 - Councillor Asjad Mahmood (attended both meetings)
 - Councillor Mohammad Hanif (attended both meetings)
 - Councillor Brian Newman (attended 23rd March Council meeting - did not respond)
 - Councillor Mohammed Iqbal (attended 23rd March Council meeting)
 - Councillor Kevin Salter (attended both meeting)
 - Councillor Kieran McGladdery (attended both meetings - did not respond)
 - Councillor Chris Church (attended 23rd March Council meeting)
 - Councillor Tom Whipp (2nd Complainant – attended 23rd March Council meeting - did not attend agreed interviews)
 - Councillor David Whipp (1st Complainant – attended both meetings)

- Councillor Sarah Cockburn-Price (Subject Councillor – attended both meetings)
 - Jane Watson – Head of Democratic Services (attended both meetings)
- 5.3. The Investigating Officer viewed the recordings of both meetings uploaded to YouTube by the Councillors Whipp. These are not official Council recordings. The recording for the Special Budget Policy and Resources Committee meeting held on 9th February 2023 only included audio for the first 20 minutes, but there was a full audio and visual recording of the full Council Meeting held on 23rd March 2023.
- 5.4. The recollections of all the interviewed attendees of the Special Budget Policy and Resources Committee meeting held on 9th February 2023 (including both the Complainant and Subject Councillor) were that Councillor Sarah Cockburn-Price, did call the Complainant a ‘misogynist’ during this meeting.
- 5.5. The recollections of 6 of the 7 witnesses to the full Council meeting on 23rd March 2023, as well as Councillor David Whipp and Councillor Sarah Cockburn-Price, were that Councillor Sarah Cockburn-Price, did imply Councillor David Whipp was a sexist in her comments to him during the meeting. The recording shows that Councillor Sarah Cockburn-Price, stated, “perhaps he has a view that I shouldn’t be allowed as a woman to be on the P&R Committee”.

6 Enquiries Undertaken/ Key Findings

Code of Conduct for Members / Arrangements for dealing with allegations of breaches of the Code of Conduct for Councillors

- 6.1. The Local Authority has a “Code of Conduct for Members” document that prescribes “the conduct expected of members and co-opted members of the Council” based on the Seven Principles of Public Life “selflessness, integrity, objectivity, accountability, openness, honesty and leadership”.
- 6.2. The seventh bullet point of this document contains the rules around treating the various Council stakeholders, including other Councillors “with respect”. Respect is defined as “politeness and courtesy in behaviour, speech and the written word”. The Code later states “as a councillor you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner”.
- 6.3. Disrespect is defined in the Code of Conduct for Members as including “personal attack, harassment and bullying”. The Code then provides further sub-definitions of harassment and bullying, but not personal attack:
- Harassment – “conduct that causes alarm or distress or puts someone in fear of violence on at least two occasions”
 - Bullying – “offensive, intimidating, malicious, insulting behaviour or abuse or misuse of power which undermines, humiliates, denigrates or injures the recipient”.
- 6.4. The “Arrangement for dealing with allegations of breaches of the Code of Conduct for Councillors” is a clear and well-written document. It makes clear the requirement for the Monitoring Officer to appoint an Investigating Officer, “a Council officer, an officer of another Council, or an external investigator”, as in this case.

- 6.5. The document requires that the Councillor who is the subject of the complaint should receive a copy of the complaint, which did happen in respect of both instances.
- 6.6. At the end of the investigation, the Investigating Officer is required to provide a draft report and to send copies of that draft report to the Complainant and Subject Councillor for comments. After taking such comments into account, a final report can be issued to the Monitoring Officer. It is then up to the Monitoring Officer to “send the matter for Local Hearing before the Hearings Panel” or “after consulting the Independent Person, seek Local Resolution”. The document does not make clear who this Independent Person is.
- 6.7. This document includes actions that can be taken by the Hearings Panel and the provision for appeal (“Subject to Judicial Review, or a decision of the Local Government Ombudsman, there is no right of appeal against a decision of the Monitoring Officer or of the Hearings Panel”).

First Allegation

- 6.8. The first allegation relates to alleged comments made at the Special Budget Policy and Resources Committee meeting on Thursday 9th February 2023 [by Councillor Sarah Cockburn-Price (SCP) to Councillor David Whipp (DW)] and was reported to the Council’s Monitoring Officer by Councillor David Whipp on the same date, citing the requirement “to treat others with respect”. This meeting was attended by nine Councillors and four Officers.
- 6.9. The You Tube video recording of 9th February 2023 Special Budget Policy and Resources Committee meeting was available to view, but unfortunately there was only audio for the first 20 minutes of the 3:24:17 meeting. There was no audio for the key part of the meeting where SCP allegedly called DW a misogynist. Visually there appears to be a verbal altercation between SCP and DW at 2:20:00 in the recording, and SCP has indicated that you can see her gesticulating to DW and pointing at two other (male) Councillors. At this point SCP stated, when interviewed, that she remarked along the lines of “you didn’t interrupt him, you didn’t interrupt him, you have interrupted me, you are a misogynist”. Before the audio stopped working on the You Tube video, SCP spoke from 8:02 – 14:15 without interruption.
- 6.10. From interviews held with four witnesses at this meeting (three Councillors and an Officer in attendance), as well as DW and SCP, everyone stated that SCP did call DW a misogynist during this meeting. DW is the only witness who recalls a retraction being requested (by himself to the Chair), but no-one remembers any retraction being made at the meeting.
- 6.11. When SCP was informed of the Code of Conduct for Members complaint about her on 16th February 2023 at 10:59 via email, SCP responded in an email to the Council’s Monitoring Officer on 16th February 2023 11:51 that “Cllr Whipp is either a misogynist or he is a bully” and then provided justification for the comment, from her perspective.

Second Allegation

- 6.12. The second allegation relates to alleged comments made at the full Council meeting on Thursday 23rd March 2023 (by Councillor Sarah Cockburn-Price to Councillor David Whipp) and was reported to the Council’s Monitoring Officer on the same date by Councillor Tom Whipp (TW), again citing the requirement “treating members with respect”, but also in relation to making an

attack on another Councillor. This meeting was attended by 32 Councillors as well as an undetermined number of Officers (as they are not recorded on the minutes of the meeting).

6.13. The You Tube video of 23rd March 2023 Council meeting was available to view and included audio throughout. From a review of the video of this meeting, SCP spoke three times during the meeting:

i. Time stamps 42:19 – 46:02

Spoke without interruption

ii. Time stamps 1:35:17 – 1:36:59

Spoke without interruption

iii. Time stamps 1:52:30 – 1:53:03

SCP made a Point of clarification in response to Councillor DW's remarks on whether both Councillors Cockburn-Price should have been at a Three Group Leader's meeting held online the previous day.

"My point of clarification is I believed that I was at a meeting of the P&R Committee. I don't believe I was at a meeting of the Three Group Leaders, though in the chat, just to be clear, having been at the P&R Committee, I believed I got unpleasant remarks saying I shouldn't be allowed to be here and that's not the first time that Councillor Whipp (*meaning DW*) has said I shouldn't be allowed to be here, perhaps he has a view that I shouldn't be allowed as a woman to be on the P&R Committee."

6.14. From interviews with eight witnesses at this meeting (seven Councillors and an Officer in attendance), as well as DW and SCP, six witnesses recalled SCP saying something that implied DW was a sexist during this meeting. One witness recalled a retraction being requested (but DW himself does not), and three remember a retraction being made at the meeting. There was no retraction requested nor provided from viewing the video of the meeting.

6.15. When SCP was informed of the Code of Conduct for Members complaint about her on 30th March 2023 at 14.08 via email, SCP responded in an email to the Council's Monitoring Officer also on 30th March 2023 15:58 at length about the reasoning behind her comment, particularly how DW had treated her at Council meetings as a woman and feeling intimidated in her treatment by DW as a woman. When the Investigating Officer spoke to SCP, she did not deny making the comment, or that it implied DW was a sexist, but again provided justification for making the comment based on her experience as a Pendle Councillor.

6.16. All bar one of the eight witnesses recall SCP making a comment implying DW was a sexist at this meeting, SCP admits it, and the video recording confirms this, with "perhaps he has a view that I shouldn't be allowed as a woman to be on the P&R Committee", clearly implying she believes she is subject to different treatment by DW of SCP because she is female.

7 Conclusions

7.1. The allegations made against Councillor Sarah Cockburn-Price (SCP) that she breached the Code of Conduct for Members at two separate meetings by speaking without respect to Councillor David Whipp (DW) can be seen to have been confirmed.

- 7.2. SCP did call DW a misogynist at the Special Budget Policy and Resources Committee meeting on 9th February 2023.
- 7.3. SCP did imply DW was a sexist in her comments to him at the Council meeting on 23rd March 2023 by saying “perhaps he has a view that I shouldn’t be allowed as a woman to be on the P&R Committee”.
- 7.4. Our conclusion is that making a public allegation of misogyny and a further allegation of sexism on a subsequent occasion, without justification, amounts to failing to treat a fellow Councillor with respect.
- 7.5. Whilst SCP has sought to justify her remarks, she does so only by making counter-allegations against Councillor D Whipp as to heated disagreements they have had in committee and other meetings.
- 7.6. She has asserted that he is misogynistic without in our view providing specific evidence to substantiate that claim. SCP has stated that “as the only woman in many of these meetings, I am being singled out for special treatment”. This is not borne out by the evidence in this investigation. Other female Councillors spoke at the meetings, without interruption, and SCP herself also spoke at length during the two meetings without interruption, with the one exception.
- 7.7. We are not aware of any other complaint of sexism or misogyny by any other female Councillor, and SCP has not made any formal complaints of this nature against Councillor D Whipp.
- 7.8. Based on the findings of this investigation, it is recommended that the Monitoring Officer should apply the next stage of the “Arrangement for dealing with allegations of breaches of the Code of Conduct for Councillors” as SCP’s actions amount to ‘disrespect’ per the definitions in the Council’s Code of Conduct for Members document.

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