

# Initial Assessment Decision Notice

**Complaint Reference: NDC08/23**

**Complainant: Councillor Lynne Doherty**

**Subject Member: Councillor Adrian Abbs**

On 20 April 2023, the Monitoring Officer, Sarah Clarke, and Independent Person of this Authority, Alan Penrith, considered a complaint from Councillor Lynne Doherty concerning the alleged conduct of Councillor Adrian Abbs, a member of West Berkshire Council. Jack Karimi, Democratic Services Officer, was additionally present.

Brief Summary of the Complaint is set out below:

- That at the Executive meeting held on 23 March 2023, the Subject Member was disruptive by not allowing Councillor Steve Ardagh-Walter to respond to a question put to him.
- That the Subject Member refused to leave the Council Chamber when requested to, and later commented that he had “no respect” for the Complainant.

## **Potential breaches of the Code of Conduct identified**

The following potential breaches of the Code of Conduct were discussed:

### **Nolan Principles:**

- Personal Judgement
- Respect for Others
- Leadership

### **General Obligations:**

- 4.1(a). Councillors and Co-opted members must treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.
- 4.2(a). Councillors and Co-opted members must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.
- 4.2(f). Councillors and Co-opted members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

## Decision

In accordance with the Localism Act 2011, following the Initial Assessment the Monitoring Officer, in consultation with the Independent Person, is able to decide on one of the following four outcomes:

1. The complaint will be investigated fully by an independent investigator;
2. No further action will be taken on your complaint;
3. Some form of informal resolution will be sought;
4. The matter will be referred to the Director of Public Prosecution or the Police where it is suspected that some form of criminal conduct has occurred in relation to interests that have not been disclosed.

The Monitoring Officer in consultation with the Independent Person has concluded that in this case:

- The complaint will be investigated fully by an independent investigator.

In considering the Complaint, the Monitoring Officer in consultation with the Independent Person (hereafter “the Panel”) had regard to the West Berkshire Council Code of Conduct, the information submitted by the Complainant, the response provided by the Subject Member, and a recording of the Executive meeting held on 23 March 2023.

In her complaint, the Complainant stated that the Subject Member disrupted the meeting and continued despite requests by Councillor Ardagh-Walter and herself to stop. The Complainant additionally stated that the Subject Member’s comments were intimidating and made in an effort to undermine her position as Leader whilst chairing the meeting.

In his response, the Subject Member stated that his disruption was due to his inability to adequately respond to and debate the answer given to him by Councillor Ardagh-Walter. He suggested that this was exacerbated by what he stated was the Complainant’s aggressive use of the gavel, which the Subject Member viewed as a failure to demonstrate good judgement. The Subject Member clarified that his comments regarding having “no respect” were directed at the Complainant because of her personal choice of actions and this was not intended to undermine the position of leader.

Without making any findings of fact, the Panel concluded that the Subject Member’s conduct during the meeting may have constituted a breach of the Code of Conduct. In reaching this decision, the Panel noted both the behaviour and comments of the Subject Member. It was also noted that the incident took place during a public meeting of the Council’s Executive, where some of the most significant decisions of the Council are taken.

The Subject Member suggests in his response that his comment that he had “no respect” for the Complainant, was made after the meeting had been adjourned. The recording of the meeting records the Subject Member informing the Complainant that he had no respect for her. The Complaint and the Subject Members response both indicate that there was a further exchange after the meeting was adjourned.

It is likely that when the meeting was adjourned, Members who were in attendance at the meeting continued acting in their capacity as Members, and it is therefore likely that the Code of Conduct continued to apply to any comments made at that stage.

The Panel noted that that Members have a right to freedom of expression, which may only be restricted when there are convincing and compelling reasons to do so, within the terms of

Article 10(2) of the European Convention on Human Rights. The Panel considered that even if the content of the statements made by the Subject Member were protected by Article 10, the level of disruption caused by the incident to a public meeting of the Council's Executive, gave rise to potential breaches of the Code of Conduct.

Having regard to the above information, it was determined that this complaint should be referred for an independent investigation, which will investigate whether there have been breaches of any or all of the following obligations:

- 4.1(a). Councillors and Co-opted members must treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.
- 4.2(a). Councillors and Co-opted members must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.
- 4.2(f). Councillors and Co-opted members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

## **What happens now?**

This Decision Notice is sent to the Complainant and the Subject Member about which the complaint was made.

## **Independent Investigation**

The Monitoring Officer will appoint an external investigator to undertake an investigation on behalf of the Governance and Ethics Committee. The Council will notify the Complainant and Subject Member of the details of the investigator who will contact them in due course to arrange an interview with them. In addition, the investigator may wish to interview additional witnesses. All information provided to the Governance and Ethics Committee already will be given to the investigator. You may wish to consider whether there is any additional information you would want them to consider.

## **What if I am unhappy with the outcome?**

The Localism Act does not provide any appeals mechanism to review this decision. However the decision may be reviewed by means of an application to the High Court for Judicial Review of the decision.

## **Additional Help**

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010.

We can also help if English is not your first language.

West Berkshire Council is committed to promoting and demonstrating fairness and equality of opportunity. We will ensure that no one is treated less fairly on the grounds of age, disability, gender, gender identity, marriage/civil partnership, pregnancy/maternity, race, religion/ belief, sexual orientation, or on any other grounds, as set out in legislation, which cannot be justified.

If you require this information in a different format, such as audio tape, or in another language, please ask an English speaker to contact Jack Karimi on Telephone 01635 503605, who will be able to help.

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**Signed**                      *Sarah Clarke*

**Date: 24 April 2023**

**Monitoring Officer Sarah Clarke**

**Signed**                      *Alan Penrith*

**Date: 24 April 2023**

**Independent Person Alan Penrith**