

Written Decision of West Berkshire Council's Advisory Panel

Date of the Advisory Panel:	10 October 2023
Reference Number:	NDC08/23
Member who this Decision relates to:	Councillor Adrian Abbs
Person who made the original allegation:	Mrs Lynne Doherty
Authority:	West Berkshire Council
Chair of the Advisory Panel:	Mike Wall (Independent Person)
Other Members of the Advisory Panel:	Councillors Anne Budd, Carolyne Culver, Jane Langford and David Marsh
Apologies:	Councillor Lee Dillon, Councillor Geoff Mayes, Alan Penrith (Independent Person) and Councillor Jo Stewart
Declarations of Interest:	None
Monitoring Officer:	Nicola Thomas (Deputy)
Investigator:	Mr Richard Lingard
Clerk of the Advisory Panel:	Stephen Chard
Date Decision Issued:	

Summary of the Original Complaint

The complaint was received following the meeting of West Berkshire Council's Executive, held on 23 March 2023, and relates to the alleged conduct of Councillor Abbs (the Subject Member) at that meeting.

Mrs Doherty, the Complainant, who was the Leader of the Council at that time and chairing the Executive, felt that the conduct of the Subject Member was a breach of the Council's Code of Conduct and the Nolan Principles.

The Complainant has alleged that the Subject Member disrupted the meeting by refusing to allow Councillor Steve Ardagh-Walter, a Member of the Executive, to respond to a question that had been put to him by the Subject Member. This disruption continued despite requests by the Complainant and Councillor Ardagh-Walter for this to stop.

The Subject Member initially refused to leave the Council Chamber when asked to do so and commented that he had no respect for the Complainant.

Outcome of the Initial Assessment

The complaint was received on the 29 March 2023 and was initially assessed on 20 April 2023 by the Monitoring Officer and Independent Person (Alan Penrith) of West Berkshire Council.

In considering the complaint the Monitoring Officer, in consultation with the Independent Person, had regard to the West Berkshire Council Code of Conduct, the information submitted by the Complainant, the information submitted by the Subject Member, and the recording of the Executive meeting.

It was concluded that in this case, while not making any findings of fact, the Subject Member's conduct during the meeting may have constituted a breach of the Code of Conduct.

The Initial Assessment concluded that the complaint be referred for an independent investigation.

Conclusion of the Independent Investigator

Mr Richard Lingard was appointed to undertake the investigation on behalf of the Monitoring Officer. He considered the same information made available at the Initial Assessment stage and interviewed the following people as part of the investigation:

- Mrs Lynne Doherty (then Councillor Doherty) (Complainant).
- Councillor Adrian Abbs (Subject Member)

Mr Lingard's draft report was shared with the Subject Member and the Complainant, and further comments were invited. These were incorporated into the final report where relevant.

In summary, Mr Lingard's findings are as follows:

1. That there is evidence of Councillor Abbs breaching paragraph 4.1(a) of the Council's Code of Conduct:
'4.1 Councillors and Co-Opted Members must:
(a) Treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.'

By failing to show courtesy and/or respect to Councillor Ardagh-Walter and the Complainant by interrupting and talking over them.

In considering paragraph 4.2(a) of the Council's Code of Conduct:
'4.2 Councillors and Co-Opted Members must not:
(a) Engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.'

There was found to be no evidence of a breach.

In considering paragraph 4.2(f) of the Council's Code of Conduct:
'4.2 Councillors and Co-Opted Members must not:
(f) Conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.'

There was found to be no evidence of a breach.

Views of the Advisory Panel

A summary of the Advisory Panel's discussions is provided below to aid the Governance Committee's deliberations:

The Panel agreed with the point made by the Investigator that the Subject Member had been given adequate opportunity to ask questions on the agenda item and therefore the situation need not have arisen.

There was some concern as to whether the Constitution had been followed with regard to the Subject Member's removal from the meeting and there was felt to be a level of uncertainty. As a result, and having regard to the recording, the situation appeared to have been poorly handled and came across as slightly chaotic. This 'chaos' was not felt to be entirely due to the Subject Member.

It was disappointingly the case that it was not possible to hear all of the Subject Member's comments on the recording as his microphone had been turned off.

In conclusion, the Advisory Panel unanimously concurred that there was evidence of a breach of paragraph 4.1(a) of the Council's Code of Conduct.

The majority of the Advisory Panel concurred that there was no evidence of a breach of paragraph 4.2(a) of the Council's Code of Conduct. The consensus was held that Executive meetings were a robust political arena and as such there was not evidence of bullying. A Panel Member acknowledged the point around holding robust debates, but held the view that there was evidence of bullying.

The Advisory Panel unanimously concurred that there was no evidence of a breach of paragraph 4.2(f) of the Council's Code of Conduct. The point was however made that the situation portrayed the Council in a bad light.

The Advisory Panel did not identify any areas of the Investigator's report that required further clarification.

The Advisory Panel recommended that the following people be invited to attend the Governance Committee where the matter will be determined:

1. Investigator (Mr Richard Lingard)
2. Complainant
3. Subject Member
4. Monitoring Officer

The Advisory Panel recommended that if the Governance Committee concurred with the finding that a breach of the Code of Conduct has occurred the Panel would recommend that the following sanction be applied:

1. A formal letter to the Subject Member from the Chairman of the Governance Committee indicating the failure to comply with the Code.

Right to Appeal

Under the revised Localism Act 2011 there is no appeals mechanism in place. Parties may challenge the decision by way of Judicial Review in the High Court. Parties are advised to seek independent legal advice prior to pursuing this option.