

Initial Assessment Decision Notice

Complaint Reference: NDC06/23

Complainant: Councillor Steve Masters

Subject Member: Councillor Ross Mackinnon

On 13 April 2023, the Deputy Monitoring Officer, Nicola Thomas, and Independent Person of this Authority, Lindsey Appleton, considered a complaint from Councillor Steve Masters concerning the alleged conduct of Councillor Ross Mackinnon, a member of West Berkshire Council. Jack Karimi, Democratic Services Officer, was additionally present.

Brief Summary of the Complaint is set out below:

- That the Subject Member engaged in disrespectful, bullying and intimidating behaviour by referring to the Complainant as a “poisonous little toad” and referring to “choosing violence” in reference to the Complainant in a WhatsApp chat.

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:

- Informal resolution will be sought.

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, LGA guidance, the Social Media Protocol, the information submitted by the Complainant, and the response by the Subject Member.

In his complaint, the Complainant stated that the Subject Member’s statements were part of a pattern of disrespectful complainant towards him, and could be regarded as bullying or intimidating behaviour.

In his response, the Subject Member stated that he was not acting in his capacity as a Councillor, as his participation within the WhatsApp group was solely as a Conservative candidate and member. The Subject Member additionally stated that the screenshots of the WhatsApp group had been taken out of context, and clarified that “choosing violence” was an online metaphor referring to being brutally honest or issuing a strong response.

The Panel determined that it was questionable whether the Subject Member was acting in his capacity as a Councillor or representative of the Authority. The WhatsApp group appeared to be a group that was not strictly limited to Councillors and the Subject Member confirmed that it was not on a West Berkshire Council provided mobile telephone. However, it was clear that the Subject Member could be identified and those participating in the group will have known his role as a Councillor for West Berkshire Council. The Panel concluded that, in accordance with guidance, as there was doubt over whether the Subject Member was acting in his capacity as a Councillor, the complaint would be considered.

The timing of the Complaint was noted.

The Panel concluded that the use of the phrase “poisonous little toad” was personal, disrespectful, and inappropriate language towards a fellow councillor, and may constitute a breach of the Code of Conduct and the Nolan Principle of Respect for Others.

On references to violence, the Panel accepted the Subject Member’s clarification that “choosing violence” was intended to be an online metaphor, and concluded that the provided screenshots did not provide sufficient context to determine if a breach of the Code of Conduct had occurred.

What happens now?

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

Informal Resolution

The Subject Member will be asked to issue an apology to the Complainant, Councillor Steve Masters, for the use of the phrase “poisonous little toad”.

It should be noted that dealing with a matter by alternative resolution at the Initial Assessment stage is making no finding of fact as there has been no formal investigation. It is suggested that this is the most proportionate resolution to the complaint.

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.

Signed *Nicola Thomas*

Date: 14 April 2023

Deputy Monitoring Officer Nicola Thomas

Signed *Lindsey Appleton*

Date: 14 April 2023

Independent Person Lindsey Appleton