

## **INITIAL ASSESSMENT OF COMPLAINT DECISION NOTICE**

**Subject Member: Cllr Steve Count – Cambridgeshire County Council**

### **1. Background**

- 1.1. On 3rd December 2018 the Monitoring Officer received a formal complaint from Councillor Kindersley (“the Complainant”), alleging that Cllr Count (“the Subject Member”) had breached the Cambridgeshire County Council Code of Conduct.
- 1.2. The substance of the complaint relates to a motion regarding members allowances proposed for consideration at a Council meeting on 13th December 2019. In particular it is stated that the Motion and associated Press Release was designed to coerce members into relinquishing their entitlement without having any regard for the impact that may have on them financially and with the intention of undermining those who opposed the proposal for political gain.
- 1.3. It is acknowledged that there has been a delay in processing this complaint. Unfortunately the Monitoring Officer was absent from the office on a prolonged period of sick leave since Christmas and has only recently returned to work.

### **2. Evidence Considered**

- 2.1. The following documents and information were considered for the purposes of this initial assessment of this complaint:-
  - 2.1.1. Complaint sent by email on 3rd December together with the attachment referred to therein;
  - 2.1.2. Responses from the Subject Member sent by email on 21st and 25th March 2019; and
  - 2.1.3. The Council’s Members’ Code of Conduct.

### **3. Jurisdiction**

- 3.1. For a complaint to be considered in connection with the Member’s Code of Conduct, the following test must be satisfied:
  - 3.1.1. the complaint was made against a person who, at the time the alleged action took place, was a member of Cambridgeshire County Council; and
  - 3.1.2. the Subject Member had signed up to the Members’ Code of Conduct in force at the time the alleged action took place; and
  - 3.1.3. the Subject Member was conducting the business of their authority or acting, claiming to act or giving the impression of acting as a representative of the authority.

- 3.2. The Independent Person and Deputy Monitoring Officer have concluded all three limbs of this test are satisfied in this matter.

#### **4. Initial Assessment Decision**

- 4.1. The Independent Person has considered whether the actions of the Subject Member described in paragraph 1.2 above constitutes a breach of the following provisions of the Members' Code of Conduct:

- 4.1.1. You must treat others with respect (para 2.1 Code of Conduct);
- 4.1.2. You must not bully any person (para 2.2(b) Code of Conduct).

- 4.2. The complaint and subject member's response can be summarised as follows:

- 4.2.1. The Complainant alleges that the Subject Member's (then) proposed Motion and in particular the following wording is not respectful and amounts to bullying:

*'That the voting be recorded and that a vote for this motion is a voluntary request to Democratic Services to reduce the allowance as outlined. A vote against or abstention to be assumed to be no voluntary reduction. That any Councillors wishing their vote to be treated differently and for those not present should notify Democratic Services within one week of this meeting if they wish to take a 1.2% reduction in their allowance. For the sake of transparency, Democratic Services will publish on our website those Councillors who have agreed to a voluntary reduction in their allowances'*

In particular the complainant considers that this, and the associated press release lacks regard for the financial position of members generally and is designed for political gain. The Complainant alleges that forcing Councillors into a public position on their allowances fails to treat them with respect as also evidenced by the 'assumption' that abstention is to be taken as amounting to a voluntary reduction. The Complainant considers collectively this also amounts to coercive/bullying behaviour intended to demean Councillors who are unable to give up the requested amount.

- 4.2.2. Councillor Count contends that he did not speak directly with the Complainant regarding the motion and that the allegation must therefore relate only to the motion. Cllr Count does not consider that this in itself is capable of amounting to bullying and it was not his intention that it should be received as such. Councillor Count has also

referred to the fact that the motion was approved by the monitoring officer and democratic services before publication in any event.

- 4.3. The Independent Person and Deputy Monitoring Officer having considered all of the available evidence with the pertinent factors having been identified as follows:

4.3.1. As to the question of whether Councillor Count has failed to treat other members with respect as a result of the substance of his motion and the proposals with regard to the treatment of abstentions, paragraph 10.3 of the Council's Constitution specifies that a Motion on Notice *'must be about matters for which the Council has a responsibility or which affect the County. They may propose an addition or change to a policy framework provided that the addition or change could not reasonably have been raised when the policy framework was originally approved'*. Other than this there are no other specific restrictions/prohibitions save that there is an established custom and practice of the Monitoring Officer/Democratic Services discussing any concerns that they may have with the proposer as necessary. Consequently it is correct, the motion having been approved for debate, that on the face of it the proposals were not considered to be outside the scope of the Council's standing orders or otherwise inappropriate however, that does not in itself mean that they are not capable of being construed as such when other factors are taken into account. This is particularly significant to the question of 'bullying' and any conversations that may have taken place outside the context of the debate which is dealt with below. Equally the Council's standing orders permit members to submit proposed amendments to motions thereby providing an avenue to influence the outcome of the debate and the motion itself provided an option for members to notify democratic services if they wished their vote to be treated differently than had been proposed.

4.3.2. As to the question of whether Councillor Count is guilty of bullying, the definition of bullying is broadly defined by 'Bullying UK' as 'repeated behaviour which is intended to hurt someone either emotionally or physically and is often aimed at certain people because of their race, religion, gender or sexual orientation or any other aspect of their appearance or disability. In this context it seems clear that the actions described applied equally to all members including Councillor Count himself. The motion was not specifically discussed with Councillor Kindersley and consequently no more influence/pressure was exerted over him than anyone else who was required to participate in the debate and voting at the time.

4.3.3. In conclusion the Independent Person's view is that:

4.3.3.1. In respect of the allegation of Cllr Count having failed to treat the Complainant with respect, whilst it is acknowledged that the motion raises what could be viewed as a controversial subject matter for debate, it is not outside the remit of the Council's Standing Orders which in themselves provide avenues for challenge such as the proposal of amendments and/or in the context of the debate itself. Equally, one of the specific concerns raised is that of the motion having been disrespectful in terms of the assumptions that would be made in the event that a member abstained or voted against the motion. However, also built into this was the option for members to notify democratic services if they wished their vote to be treated differently. Consequently whilst Councillor Kindersley's observations regarding the potential impact of the motion are not without merit, it is not considered that this in itself is sufficient to amount to a breach of the Code in this context.

4.3.3.2. In respect of the allegation that Cllr Count is guilty of bullying, whilst again it is acknowledged that the subject matter of the motion raised some potentially challenging issues for debate it applied equally to all members and there is no evidence of Councillor Kindersley or any other member having been specifically targeted and/or coerced into voting in a particular way/outside the normal whipping system. Consequently it was not considered that these circumstances would meet the threshold for bullying having regard to the legal definition.

4.3.4. As a consequence of the above, the Independent Person advised that in her opinion there was no apparent breach of the Code of Conduct and therefore no further action should be taken.

4.3.5. The Deputy Monitoring Officer concurs and therefore no further action will be taken.

**Approved By:** Gillian Holmes (Independent Person)  
Amy Brown (Deputy Monitoring Officer)

**Dated:** 1st April 2019