

Contact:
Direct Tel:
email:
Your ref:
Our ref:



Councillor Pete Molloy

3 October 2023

Dear Councillor Molloy

**Re – COM 393, COM 397 and FS-Case-51439036
Councillor P Molloy Letter of Censure**

I write further to the Standards Committee Hearing Panel on 21 September 2023, which considered a number of complaints against you. This letter relates to complaints COM 393, COM 397 and FS-Case-51439036.

The Monitoring Officer received three complaints against you. COM 393 and COM 397 related to two complaints, one submitted by an Officer of the Town Council and one by the Chair of Spennymoor Town Council about your alleged failure to comply with actions required of you as a result of a finding by the Hearing Panel of the Standards Committee of 23 November 2021. Further, the complaints concerned an email that you sent to other Town Councillors dated 16 March 2022 and a social media (Facebook) post that you made on or about 26 March 2022. FS-Case-51439036 relates to a complaint submitted by a member of Spennymoor Town Council about a comment you posted on Facebook.

A Decision Notice dated 5 October 2022 was issued for COM 393 and COM 397, referring the matters for investigation. A further Decision Notice dated 25 May 2023 was issued for FS-Case-51439036 determining that the matter be referred to the Standards Committee for a hearing.

The Hearing Panel was convened on 21 September 2023 to consider the Investigating Officer's report and supporting documentation and representations made during the hearing.

The Panel reached its findings in respect of the complaints, considering the papers before it and the representations made in reaching its conclusions.

Resources

Durham County Council, County Hall, Durham DH1 5UF
Main Telephone 03000 26 0000

Text Messaging Service 07860 093 073

FS-Case-514139036

The Panel was satisfied that you were acting in your capacity as a Councillor when the comments subject of this complaint were made.

The panel was satisfied that the post was made in both public and in your official capacity. Further, the panel determined that following the previous complaint heard by the Standards Committee Hearing Panel in November 2021, you ought to have been aware of the guidance cited by the Committee on Standards in Public Life on official capacity and social media. Having considered this guidance, the Panel concluded that the Facebook post that was the subject of this complaint falls within the scope of the Code of Conduct for Members.

The Panel considered whether the comments made breached both the Spennymoor Town Council and Durham County Council Codes of Conduct for members. The Panel considered your submission that you had a right to freedom of expression and that in your view, the complaint against you was politically motivated, that the comments made were not unacceptable and that you did not make any racist remarks. The Panel did not accept this submission and concluded that freedom of expression is not an absolute right and that speech which spreads, incites, promotes or justifies hatred or intolerance may be lawfully restricted.

The Panel noted the submission that race and religion are protected characteristics under the Equality Act 2010 and that discrimination because of a protected characteristic is prohibited under the Act. The Panel concluded that your Facebook post was not a legitimate exercise of the right to freedom of expression.

The Panel concluded that the Facebook post amounted to a breach of the following provisions of both the Durham County Council and Spennymoor Town Council Codes of Conduct including:

- Behave in accordance with all legal obligations.
- Always treat people with respect.
- Not bring the role of Member or the Local Authority into disrepute and be aware that the actions and behaviour of a Member are subject to greater scrutiny than that of ordinary members of the public.

COM 393 and COM 397

The Panel was satisfied that you were acting in your capacity as a Councillor of Spennymoor Town Council in respect of all three issues complained of when the comments subject of the complaint were made.

The Panel considered each of the three issues in turn, and whether they amounted to a breach of the Spennymoor Town Council Code of Conduct for Members:

1. Issue 1: The failure to engage in mediation

The Panel accepted that one of the outcomes of the Standards Hearing Panel of 23 November 2021 was a recommendation for mediation, subject to the agreement of the relevant Town Council Officers and that mediation is a voluntary process that requires the consent of all parties. The Panel concluded that you failed to raise any concerns that you had around the mediation process, prior to making a determination not to engage. In failing to do so, the Panel found that you had shown disregard to the findings of the Standards Hearing Panel of 23 November 2021. The Panel therefore concluded that you had failed to comply with Spennymoor Town Council's Code of Conduct in respect of paragraph 2.4 (g) and paragraph 2.5, namely that *'it is expected that members will at all times comply with requests as part of Code of Conduct investigations and any arising outcomes'*.

2. Issue 2: The email of 16 March 2022

The Panel considered the wording of the email that you sent to Spennymoor Town Council Members and concluded that this breached paragraphs 2.4 (h),(i), (j) and (m) of the Code of Conduct.

3. Issue 3: The Facebook post of 26 March 2022

The Panel considered that taken along with the email sent to Town Councillors on 16 March 2022, the Facebook post was sufficient so as to amount to a breach of the Code of Conduct. Whilst the Panel heard your submissions, it did not accept that this was sufficient to justify posting criticism of an officer in the public domain. The Panel concluded that you breached paragraph 2.4 (h), (i), (j) and (m) of the Code of Conduct.

The Panel considered that the public expect a higher standard of behaviour from elected Members and the behaviour complaint of, fell short of what was expected from you.

In accordance with the Council's Local Determination Procedure, the Standards Committee Panel invited representations from you, the Investigating Officer and the Independent Person as to whether action should be taken and if so, what form the action should take. The Panel recommended the following sanctions:

- Formal Censure
- That you undertake training on Member/Officer relations

The Panel was disappointed that it was given cause to be so critical of your behaviour.

Please note that this formal censure will be published on the Durham County Council website.

Yours sincerely

Councillor Joan Nicholson
Chair of the Standards Committee Hearing