

## **DECISION NOTICE: No Further Action** **Reference WC - ENQ00124**

### **Subject Member**

Councillor Simon Killane, Wiltshire Council

### **Complainant**

Ms Alison Cross-Jones

### **Representative of the Monitoring Officer**

Mr Paul Taylor

### **Review Sub-Committee**

Councillor Julian Johnson - Chairman

Councillor Sheila Parker

Councillor Bob Jones MBE

Miss Pam Turner (non-voting independent member of the Standards Committee)

### **Independent Person**

Mr Colin Malcolm

### **Complaint**

It is alleged that Councillor Killane posted to his website on 4 October 2015 statements that are false and very damaging about the Complainant both personally and professionally and as a result he has breached the Wiltshire Council's code of conduct in that:

- He failed to promote and support high standards of conduct when serving in public office by failing to have regard to the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- He has not acted in the public interest and has improperly conferred a disadvantage on the Complainant.

### **Decision**

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee decided that no further action will be taken.

### **Reasons for the Decision**

#### Preamble

The Chairman led the Sub-Committee through the local assessment criteria which detailed the initial tests that should be satisfied before assessment of a complaint was commenced.

Upon going through the initial tests, it was agreed that the complaint related to the conduct of a member and that the member was in office at the time of the alleged incident. The Sub-Committee accepted the reasoning of the Deputy Monitoring Officer in his Initial Assessment that the blog post on the subject member's personal website, due to content and framing, was such that he was acting in his capacity as a councillor in making the post and therefore was subject to the Code of Conduct. They therefore needed to consider if the alleged actions of the subject member would amount to a breach of that Code, including failing to uphold the Nolan Principles.

The Sub-Committee relied upon the original complaint, initial assessment and the additional information supplied in the complainant's request for a review of that initial assessment during their considerations.

#### Initial Assessment and Request for Review

The Decision Notice produced by the Deputy Monitoring Officer had provided a lengthy and detailed summation of the law and his interpretation of the facts of the complaint. He had concluded that the comments, while unwise and likely to escalate the situation further, would not amount to a breach of the Code. In reaching this conclusion he had had regard to the nature of the political debate already occurring publicly within the community. He had considered whether the emotive language utilized by the subject member in his blog post had, in the context of that ongoing and connected wider political debate which had involved the complainant, progressed into the realm of a personal attack as opposed to retaining the enhanced protections on free speech afforded to political commentary.

Additionally, the Deputy Monitoring Officer had clarified that even if his assessment that the words did not amount to a breach of the Code was considered to be incorrect, he would still have determined that no further action should be taken in accordance with paragraph 5 of the assessment criteria adopted by the council, which states:

*A complaint will not be referred for investigation if, on the available information, it appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.*

The Sub-Committee considered the arguments of the complainant in her request for a review of the Initial Assessment. She disputed the interpretation of the Deputy Monitoring Officer, in particular she felt that the wider context of historic complaints and allegations should not have been regarded as relevant to her current complaint, and that the comments of the subject member directed at her should not be considered as part of a political debate ongoing within Malmesbury.

#### Committee Reasoning

Whilst the Sub-Committee agreed that the comments of the subject member were extremely unwise and provocative, after considerable assessment of the evidence as presented it was nevertheless satisfied that even if the comments did not amount to politically protected speech, the Deputy Monitoring Officer's

reasoning was correct that given the multitude of competing, interrelated and persistent complaints and counter complaints involving the subject member and the complainant among others in the community, the latest incident and subsequent complaint could rightly be considered connected. The incident at the source of the latest complaint was itself a response to previous complaints, and part of a series of wider accusations from all parties, much of which, if not all, was widely publicised within the community along with the identities of the key individuals. It was therefore considered reasonable and appropriate to regard the latest complaint as, to some extent, forming part of that publicised debate about political leadership and personal conduct of the subject member when assessing the nature of and therefore level of protection of the comments of the subject member.

The Sub-Committee accepted that there were personal comments from the subject member included as part of the complaint. However, many of these comments related directly to his words and actions as a community representative, and were responses to those criticising his words and actions as such. The Sub-Committee therefore accepted the reasoning of the Deputy Monitoring Officer that these comments were properly considered as being in respect of political leadership. Whilst not all comments made on social media would necessarily be considered as relating to a member's political leadership role, in this specific case, it was accepted that the nature of the comments did relate to such a role.

The Committee were therefore satisfied with the determination that, even if it was felt the comments of the subject member were not afforded the enhanced protections of political speech, under paragraph 5 of the local assessment criteria it was not in the public interest to investigate the complaint further, for the reasons as set out by the Deputy Monitoring Officer.

The Sub-Committee was also wholly supportive of the recommendation of the Deputy Monitoring Officer that attempts be made to mediate with the affected parties, in order to seek some kind of end to the circular divisiveness currently impacting upon the political and communal effectiveness, and subsequently the reputation of, the Malmesbury community.

### **Additional Help**

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