

Assessment Decision Ref 2019-050

Complainants:	Various – members of the public and Holme Valley Parish Councillors
Subject Member:	Holme Valley Parish Councillor James Dalton
Consultees:	Councillor Mohan Sokhal, Councillor Karen Allison, Councillor Alison Munro, Councillor Paul White and Councillor Richard Smith
Decision Makers:	Councillor Martyn Bolt (for Chair of Standards), Mr Michael Stow (Independent Person), John Chapman (Deputy Monitoring Officer)

As Deputy Monitoring Officer, substitute Chair of Standards and Independent Person, we have considered what action should be taken in respect of this complaint and have consulted the above Group Business Managers (GBMs and Consultees) in doing so.

As a number of the complaints concerned comments that had been made by Cllr Dalton about the Monitoring Officer (Julie Muscroft) and the Chair of the Standards Committee (Cllr Paul Davies) it was felt inappropriate for them to sit as part of the assessment panel and to act as decision makers. The Monitoring Officer was replaced by one of the Deputy Monitoring Officers and another member of the Standards Committee stood in for the chair.

The complaints all related to allegations about Cllr Dalton's behaviour on social media. The allegations related to a number of posts, from September 2019, through to June 2020 made by Cllr Dalton.

The 21 complaints essentially break down into 6 distinct complaints and the assessment panel and us as decision makers considered each one separately and reached a conclusion in respect of each of the 6.

In coming to our decisions we took account of various pieces of information including:

- the written complaints submitted by a total of 21 people
- the response to the complaints by Cllr Dalton
- the contributions of the GBMs at the assessment panel meeting

The assessment panel noted that this was not the first time that they had considered complaints relating to Cllr Dalton's social media posts and they were disappointed that the previous set of sanctions appeared to not have been complied with and have had no effect on his behaviour. It was the view of the panel that there were insufficient sanctions available to the Monitoring Officer or the parish council.

Cllr Dalton was asked to respond to the complaints, but in response simply stated that he was not acting as a Councillor when he posted on Twitter and Facebook and that, consequently, the Code of Conduct did not apply. A response was sent, reminding him of his right to respond to the complaints but he did not reply to this. We regard Cllr Dalton's failure to respond and engage with the process as a serious matter and this is reflected in our findings of breaches of part 3A.11 of the Code of Conduct.

In line with the published standards process, the assessment panel met to consider the complaint.

The relevant Code of Conduct is that of Kirklees Council, Holme Valley Parish Council (HVPC) having adopted it in 2019.

Consideration was given to the applicability of Article 10 of the European Convention on Human Rights and the right to freedom of speech. There was acknowledgment that this was not an absolute right and that a distinction needed to be made between what was being said and the manner in which it was said, as well as who was the subject of such comments.

Conclusion/Decision

Given that Cllr Dalton had responded to the complaints by suggesting that he was not making social media posts as a councillor, it was necessary for the purposes of dealing with the complaints to determine if he had been acting as a councillor when posting the comments. The panel were of the view that, as his Twitter 'handle' stated that he was a councillor and that his 'biog' made reference to the HVPC, he had been acting as a councillor when posting the comments. The panel took the view that he could easily have edited his Twitter 'handle' if he did not want members of the public to associate his tweets with his role as an HVPC councillor. As decision makers, we were in agreement with the panel that he had intended his tweets to be seen as coming from a councillor.

When considering the applicability of Article 10, both the assessment panel and the decision makers were of the view that in some of his tweets Cllr Dalton went beyond what would be regarded as exercising a right to free speech and a right to make political comment. It was felt that a number of the comments were not merely the expression of a political view, but went further than that and constituted unjustified and sometimes personal attacks on members of the public, as well as other councillors and officers, and which could be regarded as being bullying in nature.

Complaint 1

This was a complaint that Cllr Dalton's Twitter account 'biog' referred to the HVPC as being 'Marxist infected'. The complaint was also that Cllr Dalton had referred to Cllr Paul Davies as 'scum', as a 'child abuser' and to the Monitoring Officer as a 'nazi'. This was his social media response to the previous standards investigation.

We considered first whether stating that the HVPC was 'Marxist infected' was a breach of the Code of Conduct. On balance, whilst we felt that the use of the word 'infected' was intended to be derogatory, we believe that the comment was not directed at any one individual and was a legitimate rhetorical political comment.

With regards to the second part of the complaint where Cllr Davies and Ms Muscroft were the objects of Councillor Dalton's remarks, we find Councillor Dalton's use of offensive language in describing Cllr Davies and Ms Muscroft as "disgusting pieces of corrupted filth" to go beyond what is acceptable political comment. Whilst the protections afforded by Article 10 ECHR extend to cover political speech involving a degree of offence, shock polemic or even aggression we find that Councillor Dalton's words go beyond what is acceptable.

In relation to Councillor Davies, Councillor Dalton's description of him as a person perpetrating child abuse in the Holme Valley implies serious criminal behaviour in a way calculated and likely to be grievously offensive to Councillor Davies. Ms Muscroft is not a political opponent of Councillor Dalton, she is a public servant and we find that to describe her as a Nazi and to use the extreme language described above towards her is unwarranted and unjustifiably offensive. It is not in the public interest for public servants to be targeted in this way. We find the following breaches of the Code of Conduct occurred:

1. 3A 1 – you must treat others with respect
2. 3A 2 – you must not bully or harass any person
3. 3A 3 – you must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of behaviour
4. 3A 5 – you must not conduct yourself in a manner which would reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute
5. 3A 9 – you must respect the impartiality and integrity of the authority's statutory officers
6. 3A 11 – you must co-operate with the standards process when you are the subject of a complaint and respond to a complaint that is brought against you

Complaint 2

This complaint was about a series of tweets that were alleged to be homophobic and that also made reference to the previous standards process findings and sanctions. There is also a tweet in which Cllr Dalton describes Cllr Davies as a "corrupt piece of child abusive Common Purpose filth" and goes on to refer to Ms Muscroft as "Monitoring Nazi".

We find that one of Cllr Dalton's tweets can be read as unjustifiably and offensively associating the LGBT+ community with child sexual abuse.

The tweets concerning Cllr Davies and Ms Muscroft are breaches of the code for the reasons set out above. In our view the targeting of Cllr Davies and Ms Muscroft in this way constitutes bullying and harassment.

We considered that Cllr Dalton's tweeted response of 'still waiting lol' to be a clear rejection of the standards process.

We find that the following breaches occurred:

1. 3A 1 – you must treat others with respect
2. 3A 2 – you must not bully or harass any person
3. 3A 3 – you must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of behaviour
4. 3A 5 – you must not conduct yourself in a manner which would reasonably be regarded as bringing the Council into disrepute, or you position as a Councillor into disrepute
5. 3A 9 – you must respect the impartiality and integrity of the authority's statutory officers
6. 3A 11 – you must co-operate with the standards process when you are the subject of a complaint and respond to a complaint that is brought against you
7. 3A 12 – you must comply with the decision of the standards process if you are found to be in breach of this Code of Conduct

Complaint 3

This complaint related to alleged racist and misogynistic language in a tweet that was directed to a journalist, Beth Rigby, that referred to Keir Starmer. Keir Starmer is a high profile senior politician and other politicians such as Cllr Dalton are free to express adverse opinions about such individuals in provocative, polemical and aggressive terms. However we find that Cllr Dalton in making unsupported allegations of serious wrongdoing by Sir Keir in his role as DPP breached the Code of Conduct in failing to treat him with respect and in doing so in his role as Councillor may be regarded as bringing the Council into disrepute.

In relation to the comments addressed to Ms Rigby, she is a public figure who may be the subject of legitimate and forceful criticism expressed in colourful and vigorous language. However we find that the use of sexually obscene language found here is unacceptable for a Councillor.

We find that the following breaches occurred:

1. 3A 1 – you must treat others with respect
2. 3A 3 – you must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of behaviour
3. 3A 5 – you must not conduct yourself in a manner which would reasonably be regarded as bringing the Council into disrepute, or you position as a Councillor into disrepute
4. 3A 11 – you must co-operate with the standards process when you are the subject of a complaint and respond to a complaint that is brought against you

Consideration was given to whether or not there had been a breach of part 3A 4 – *you must not do anything which may cause the Council to breach its equality duties*. It was felt that, whilst Cllr Dalton's words were offensive and a cause of concern, these had not *caused* the HVPC to breach its equality duties.

Complaint 4

This was a complaint about the use of language in a tweet that it was alleged was synonymous with Nazi Germany.

There was some discussion about how an ordinary person may interpret the use of the word 'ze' in place of 'the'. The complainant was of the view that Cllr Dalton was intending the meaning to be offensive and had intended to associate the member of Sainsbury's staff that the tweet referred to with Nazi officials who sought to excuse their actions by claiming to have only been following orders. The decision makers found that the use of the words had been intended by Cllr Dalton to invoke a comparison of the shop worker with Nazi officials and that in doing so he was in breach of the Code of Conduct.

We find that the following breaches occurred:

1. 3A 3 – you must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of behaviour
2. 3A 5 – you must not conduct yourself in a manner which would reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute
3. 3A 11 – you must co-operate with the standards process when you are the subject of a complaint and respond to a complaint that is brought against you

Complaint 5

This was a complaint about an alleged homophobic response to a Tweet celebrating Pride. We felt that the language used by Cllr Dalton in his response to the Tweet was offensive and that he was promoting a negative image of LGBT+ people.

We find that the following breaches occurred:

1. 3A 1 – you must treat others with respect
2. 3A 2 – you must not bully or harass any person
3. 3A 3 – you must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of behaviour
4. 3A 5 – you must not conduct yourself in a manner which would reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute
5. 3A 11 – you must co-operate with the standards process when you are the subject of a complaint and respond to a complaint that is brought against you

As for complaint 3, we gave consideration to whether part 3A 4 of the code had been breached. Whilst we find that the language used by Cllr Dalton is offensive and inappropriate, we do not find that his actions have caused the HVPC to breach its equality duties.

Complaint 6

This was a complaint that related to a response posted by Cllr Dalton to a tweet that was alleged to be Islamophobic. We found that the language used by Cllr Dalton was offensive and that his intention in using it was racist because he was promoting his negative views of asylum seekers and immigrants in general.

We were concerned that his comments had been addressed to a 13 year old girl participating in public debate and that this was bullying behaviour.

The panel noted that Cllr Dalton had been asked by the Monitoring Officer to remove this tweet, but that he failed to respond to this request. The panel also noted that the tweet had been removed, but that it was Twitter who removed it, on the grounds that it breached their own guidelines.

It was held that the following breaches occurred:

1. 3A 1 – you must treat others with respect
2. 3A 2 – you must not bully or harass any person
3. 3A 3 – you must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of behaviour
4. 3A 5 – you must not conduct yourself in a manner which would reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute
5. 3A 11 – you must co-operate with the standards process when you are the subject of a complaint and respond to a complaint that is brought against you

As before, consideration was given to whether part 3A 4 of the code had been breached. Whilst we do agree that the language used was offensive and unacceptable, we do not find that this caused the HVPC to breach its equality duties.

With regards to sanctions, we note that this decision will be referred back to HVPC for debate, but we would suggest that the following should be considered:

- i) an apology from Cllr Dalton;
- ii) a requirement for Cllr Dalton to delete all of the remaining Tweets complained of;

- iii) a requirement for Cllr Dalton to edit his Twitter 'handle' and 'biog' to remove references to him being a councillor;
- iv) reiterating the previous sanction requiring Cllr Dalton to attend diversity training;
- v) formal censure by HVPC of Cllr Dalton.

Signed:

Dated: 8th September 2020

John Chapman

Deputy Monitoring Officer

Signed:

Dated: 8th September 2020

Cllr Martyn Bolt
for Chair of Standards

Signed:

Dated: 8th September 2020

Michael Stow
Independent Person