

Assessment Decision Ref 2019-048

Complainants:	Various
Subject Member:	Holme Valley Parish Councillor James Dalton
Consultees:	Councillor Mohan Sokhal, Councillor Karen Allison, Councillor Alison Munro, Councillor Richard Smith and Councillor Paul White
Decision Makers:	Councillor Paul Davies (Chair of Standards), Mr Michael Stow (Independent Person), Julie Muscroft (Monitoring Officer)

The Complaint is as set out in the attached Complaint Summary. As Monitoring Officer, Chair of Standards and Independent Person, we have considered whether there has been a breach of the Holme Valley Parish Council (HVPC) Code of Conduct and, if so, what action we would suggest should be taken in respect of this complaint. We have consulted the above Group Business Managers as Consultees in doing so and have taken account of their views.

In coming to a decision we took account of various information including:

- * the written complaints by 30 members of the public;
- * the full Twitter 'nurses' post;
- * Cllr Dalton's email of the 15th of July;
- * copies of other Tweets that postdate the 'nurses Tweet';
- * further correspondence from one of the complainants.

The complaints related largely to Cllr Dalton's response to a Tweet by Tom Watson MP in support of action being taken by nursing staff over nurse shortages in the NHS.

Some of the complaints went into further detail, highlighting Cllr Dalton's responses to them personally on Twitter, or making reference to further Tweets on matters not related to the 'nurses Tweet'.

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.

It was suggested by the complainants that the member obligations of the HVPC Code of Conduct had been breached as follows:

1. He/she shall behave in such a way that a reasonable person would regard as respectful
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory

Cllr Dalton was initially informed that the complaints had been received and responded by email on the 15th of July. The full file of complaints was forwarded to him on 13th of August, but although reminded of the time period to respond he did not do so.

Due to concerns about how Cllr Dalton had initially interacted with others on Twitter and concerns that had been raised about his postings on other subjects, his Twitter feed was checked and a number of Tweets were highlighted that were of potential concern. These were put before the assessment panel.

Conclusion/Decision

Having considered the information and evidence it is our view that Cllr Dalton did breach the HVPC Code of Conduct and the complaint is upheld.

We find that Cllr Dalton was acting in his capacity as Parish Councillor when posting the Tweets and was not acting as a private individual. This is because his Twitter 'handle' makes it clear that he is a councillor, as does his Twitter 'biography'. The Code of Conduct adopted by HVPC is *'to promote and maintain high standards of behaviour by its members ...when they claim to act or give the impression of acting as a representative of the Council'*

When considering the applicability of Article 10, both the assessment panel and the decision makers were of the view that Cllr Dalton went beyond what would be regarded as exercising any right to free speech and to make political comment. It was agreed that the comments were not merely the expression of a political view, but went further than that and constituted unjustified attacks on members of the public and in some of the Tweets could be regarded as bullying in nature.

The following breaches of the HVPC 'Member Obligations of the Code of Conduct' were found:

1. He/she shall behave in such a way that a reasonable person would regard as respectful
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory

The consultees were in agreement that they felt there were breaches of both of the suggested member obligations in the HVPC Code of Conduct and the decision makers were in unanimous agreement with this view.

In terms of suitable sanctions, we have suggested below what we consider would be appropriate sanctions and which are available to HVPC and as required by the procedures the matter will now be referred to HVPC for their consideration.

It should be noted that there is currently no power of suspension available to Councils. If the power to suspend a councillor were in place, the decision makers note that they would have recommended suspension in this case.

As decision makers, therefore we would suggest that some or all of the following sanctions would be suitable and should be considered by HVPC :

1. Requiring the councillor's attendance at diversity training;
2. Requiring the deletion of the Tweets complained of and any others that the Parish Council deem bring it into disrepute;
3. Issuing an apology and acknowledging the impact of the Tweets;
4. Removing the councillor's HVPC email address;
5. Requiring the councillor to attend a meeting of HVPC to answer for his actions;
6. Removing the councillor from any HVPC committees he sits on.

Signed:

Dated:

Julie Muscroft
Monitoring Officer (on behalf of the decision makers)