

NORTH TYNESIDE COUNCIL STANDARDS COMMITTEE
FULL DECISION NOTICE

Name of Authority:	North Tyneside Council
Member(s) subject of allegation:	Councillor Liam Bones
Complainant(s):	Councillor Matt Wilson
Case Reference Number(s):	NT07.2021-22
Committee Members:	Councillors Frank Lott (Chair), Councillor Lewis Bartoli, Councillor Brian Burdis, Councillor Eddie Darke, Councillor Tracy Hallway, Councillor Janet Hunter, Councillor Wendy Lott
Investigating Officer:	Mr Mark Robinson and Mr David Kitson, Bevan Brittan Solicitors LLP
Monitoring Officer:	Jacqueline Laughton
Deputy Monitoring Officer:	John Barton
Democratic Services Officer:	Joanne Holmes
Time and Date of Hearing:	11:00am Wednesday 7 December 2022

Summary of Allegation

The complainant, Councillor Matt Wilson, alleges that:

1. The subject member, Councillor Liam Bones, posted what is described as a manipulated story on his campaigning website 'North Shields Life' that wilfully called into question the judgment and political neutrality of the Authority's then Monitoring Officer, Bryn Roberts, who was the Head of Law and Governance:
2. The published story caused "enormous damage" to the Monitoring Officer's professional reputation as evidenced by on-line comments made about the MO in that regard:
3. The story related to a request from the Monitoring Officer to the then Leader of the Conservative Group to remove Union Flag bunting and pictures of Winston Churchill and Margaret Thatcher from the Conservative Group room in the Quadrant building.
4. Councillor Bones has editorial responsibility for 'North Shields Life' which targets the political opponents of Councillor Bones, usually local politicians but that this story has "crossed the line" by targeting an officer of the Authority:

Relevant Paragraph(s) of the Code of Conduct for Elected Members

The relevant paragraphs of the Code are:

Part 1 Paragraph 1 of the Code – Treating others with Respect

You must treat others with respect, including Authority Officers and other elected members.

Part 1 Paragraph 4 of the Code – Bringing Office or Authority into Disrepute.

You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a member of the Authority, into disrepute.

Preliminary Issues

Councillor Bones attended the hearing.

Consideration was given as to whether a resolution to exclude the press and the public was required.

Councillor Bones requested that the matter be heard in private session, and that the public be excluded from the meeting.

Councillor Bones stated that the complaint concerned third parties, namely the former Monitoring Officer and the former Conservative Group Leader, who now had no connection with the Authority. He said that that the impact of the press coverage last year had impacted on them and that if the matter were reported on now, it may have a similar impact on them.

Mr Kitson indicated that he had no objection to the matter being dealt with in private session as requested by Councillor Bones and observed that the Committee had not yet determined if there had been a breach of the Code of Conduct. The Committee also had to consider the fact that the findings of the Committee would be made public in any event.

The Chair of the Committee reminded the parties that the 'Procedure for Standards Hearings' included with the papers, states that the meeting of the Committee will be open to the public unless there is confidential or exempt information under Schedule 12A of the Local Government Act 1972.

Having been advised on the public interest test that must be applied in determining if the public interest in maintaining the exemption outweighs the public interest in disclosing the information, the Committee (by majority) concluded that the public interest would be better served by the hearing being dealt with in open rather than in private session. The Committee considered that the story that had been re-published by Councillor Bones and had resulted in the complaint being made had already been widely reported on and was already in the public domain.

The Chair stated to the meeting that he was conscious that the complaints process in relation to this matter had commenced in June 2021 and that it had taken quite

some time to reach the Standards Committee for determination due to a number of complicating factors. The investigation commenced in September 2021 and the initial report, and its findings were made available to the Complainant and the Subject Member in the early part of 2022. An updated report was produced at the end of July 2022 and made available to the Complainant and Subject Member in September 2022.

The updated report refers to the possibility of the matter being resolved by way of a local resolution with Councillor Bones undergoing training on the Member/Officer Relations Protocol. Councillor Bones indicated a willingness to agree to the matter being resolved in such a manner. The Complainant, Councillor Wilson, initially agreed that he would be satisfied with a local resolution but upon reflection indicated that he would not be satisfied with such an outcome. It has therefore been necessary to convene this hearing.

The Chair stated that he was tasked with the responsibility of ensuring that there was a fair and efficient hearing and delay in reaching a decision on the complaint was minimised. The Chair emphasised that the report and its findings were focussed upon Councillor Bones' re-publication of a story in the 'North Shields Life' website operated by him concerning a request by the then Monitoring Officer for Union Jack bunting and pictures of Winston Churchill and Margaret Thatcher to be removed from the Conservative Group Room. The Committee was asked to focus upon this, and the Chair said that he would only permit submissions and lines of enquiry which would further the Committee's understanding of that issue. The Chair indicated that should he consider at any point that the Committee required further information in order to determine the matter fairly, he would consider whether the information could properly be obtained on the day of the hearing or whether an adjournment was necessary.

Findings of Fact

References in brackets below to paragraph numbers refer to paragraphs in the investigator's report considered by the Committee.

The Committee, following careful consideration of the papers and the submissions made today, finds the following:

Application of the Code

After listening carefully to what Councillor Bones had to say about the Code of Conduct not being engaged, and to the questions that he put to Mr Kitson as well as questions put to him by a member of the Committee in relation to this issue, by a majority, the Committee considered that the Code of Conduct applies to the matter being complained of.

Whilst the motivation behind the re-publication of the story in the 'North Shields Life' website may have been "political", as the story concerned the advice of a Senior Officer of the Authority, the Monitoring Officer, and how the Authority operated, the Committee was satisfied that Councillor Bones was acting in his capacity as an elected Member when he re-published the story. (para 7.8)

Publication of the Story in 'North Shields Life'

1. Members must act and be seen to be acting with the high standards of conduct as holders of public office, and when acting in that capacity. Any judgment that as to whether an elected Member has failed to act accordingly and has breached the Code of Conduct is made on the balance of probabilities. (para 8.1)
2. On 3 June 2021 the Monitoring Officer sent a WhatsApp message to the former Conservative Group Leader stating that the MO would arrange for the removal of Union Flag bunting and pictures of Winston Churchill and Margaret Thatcher on display in the Conservative Group Room. (para 8.6)
3. The Monitoring Officer believed that the display in the Conservative Group Room "risked being an overtly political matter in an apolitical venue" and that when the Monitoring Officer sent the request to remove the materials, he reasonably believed that he was doing his job and maintaining political neutrality. (para 8.6)
4. The Monitoring Officer's WhatsApp message sent to the former Conservative Group Leader was shared by the former Group Leader with the Conservative Group members. (para 8.8)
5. A Photograph of the Group Room with the bunting in place was taken by former Councillor Brockbank and the photograph taken after the removal of the bunting and pictures was taken by Councillor Bones. Those photographs appeared in various media outlets including the 'North Shields Life' website. (para 8.8)
6. Neither Councillor Bones nor the former Group Leader accept responsibility for the "leaking" of the original story to the media. (para 8.9)
7. The Committee cannot ascertain who "leaked" the story to the media, but it is reasonable to suggest that it was someone within the Conservative Group with whom the MO's WhatsApp message was shared by former Councillor Brockbank.
8. It is not disputed that Councillor Bones re-published the story about the MO's decision to remove the Union Flag bunting and pictures of the former Prime Ministers on the 'North Shields Life' website on 15 June 2021, the day after the story first appeared in the national media. (see the Investigator's note of interview with Councillor Bones)
9. Councillor Bones did not introduce the story into the public arena but in re-publishing the story exacerbated the situation. (para 8.11)

10. Councillor Bones “candidly accepted” that he did not agree with the stance taken by the MO in relation to the Union Flag and that the reason for his re-publication of the story in the ‘North Shields Life’ website was because it was “a local public interest story” and that there should be debate on the MO’s request to the Conservative Group. (para 8.12)
11. It was more likely that Councillor Bones re-published the story on the ‘North Shields Life’ website for political gain and that in doing so he failed to show mutual respect and courtesy towards the MO or promote a positive relationship between Members and Officers and avoid personal criticism of the MO in accordance with the Authority’s Protocol on Member/Officer Relations (para 8.14)
12. The re-publication of the story in the ‘North Shields Life’ website was tantamount to criticism of the MO from “inside the Authority”. (para 8.16)
13. Any concerns that Councillor Bones had about the political neutrality of the MO because of the MO’s request to remove the Union Flags and pictures from the Conservative Group Room should have been raised with the Chief Executive in accordance with paragraph 7.6 of the Member/Officer Relations Protocol rather than re-publishing the story to appear on the ‘North Shields Life’ website. (paras 1.23 – 1.24)
14. The fact that Councillor Bones was able to re-publish the story on the ‘North Shields Life’ website shows that he has control over what material appears on that website, whether he operates the website alone or with the assistance of others.
15. Councillor Bones does not agree that the re-publication of the story undermines the Member/Officer relationship or that it was disrespectful to re-publish the story in the way that he did. (para 9.8)

Findings as to whether there has been a failure to follow the Code of Conduct

The Committee, having read the papers and heard from both the Investigating Officer and the Subject Member carefully considered whether one or more breaches of the Code of Conduct had occurred. In reaching its decision the Committee took account of the views of the Independent Person.

Mr Robinson’s and Mr Kitson’s reports found that there was evidence of a breach of paragraph 1 of Part 1 of the Code of Conduct (paras 8.22-8.33).

The Committee consider that Councillor Bones’ conduct in relation to the re-publication of the story on the ‘North Shields Life’ website was unacceptable and amounted to a breach of the Code of Conduct. The re-publication of the story by Councillor Bones was a breach of the Member/Officer Relations Protocol. (Part 8.6 of the Authority’s Constitution)

The fact that Councillor Bones indicated that he would undergo training on the Member/Officer Protocol was noted by the Committee as well as his willingness to apologise to the former Monitoring Officer.

No Breach

The Committee found unanimously that Councillor Bones had not breached the following paragraph of the Code of Conduct for Elected Members:

Paragraph 4 of Part 1 of the Code of Conduct: You must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a member of the Authority into disrepute.

Whilst the Committee was very concerned with its findings of fact (set out above) it did not consider that there was a breach of paragraph 4 of the Code i.e. it did not consider that the conduct could reasonably be regarded as bringing the Authority, or the Bones' office as a member of the Authority into disrepute. In reaching this determination the Committee took in to account the fact that the Investigator did not find that Councillor Bones' behaviour was dishonest or deceitful to such a degree that the Code of Conduct has been breached. (para 8.39)

Breaches

The Sub-Committee by majority found that Councillor Bones had breached the following paragraph of the Code of Conduct for Elected Members:

Paragraph 1 of Part 1 of the Code of Conduct: You must treat others with respect, including Authority Officers and other elected members.

The Committee considered that the actions of Councillor Bones showed a lack of respect towards the Monitoring Officer. The re-publication of the story in the view of the Committee was likely to undermine the relationship of mutual trust, respect and courtesy between elected Members and Officers. (para 8.28)

Sanctions

The Committee considered the sanctions available to them and heard from the Investigating Officer, the Independent Person and the Subject Member prior to making their determination.

The Committee accepted and agreed with the views from Mr Kitson and the Independent Person that there had been a breach of the Code of Conduct.

It was noted by the Committee that Councillor Bones had offered a qualified apology to the former Monitoring Officer when the initial report suggested that as an appropriate sanction. Councillor Bones repeated his willingness to provide an apology to the former Monitoring Officer.

It was also noted that Councillor Bones agrees to undertake training on the Member/Officer Relations Protocol.

Councillor Bones in response to the initial Investigation Report (para 10.3 – page 20 of the supplemental papers), stated that he did not agree that the re-publication of

the story had undermined the Officer/Member Relations Protocol. In addition to that stated position, he now asserts that the Code of Conduct for Members was not engaged when he re-published that story. Given that Councillor Bones does not accept that he undermined the Protocol, the Committee considered it appropriate for him to undergo training on the Protocol. Such training will assist him in clarifying issues in relation to the application of the Member/Officer Relations Protocol.

The Committee noted Councillor Bones' continued willingness to apologise to the former Monitoring Officer. The Committee considered it appropriate for such an apology to be given. The Monitoring Officer will be supplied with a copy of the draft letter of apology and for the contents to be agreed with the Monitoring Officer, (or in her absence one of her team) before it is sent to the former Monitoring Officer.

The Committee determined that:

- Councillor Bones should undertake training on the Member/Officer Relations Protocol, such training to be arranged by the Monitoring Officer; and
- A letter of apology should be sent to the former Monitoring Officer by Councillor Bones and that the letter should be supplied to, and agreed with the Monitoring Officer, (or in her absence one of her team) before it is sent to the former Monitoring Officer.

In reaching its decision the Sub-Committee took into account the views of the Independent Person who considered the sanctions to be appropriate.

Request for Review

On 7 December 2022 Cllr Bones handed to the Monitoring Officer a letter requesting a review of the Committee's decision taken on that day. Cllr Bones letter detailed the reasons for seeking a review.

Mr Corraib Mac Caba, an Independent Person for South Tyneside Council, agreed to undertake the review. The papers that were before the Committee at the hearing on 7 December 2022 together with the decision notices and the Authority's Arrangements for Dealing with Complaints, were all forwarded to Mr Mac Caba for consideration.

Mr Mac Caba's findings were included in a report dated 25 January 2023. Mr Mac Caba noted the reasons why Cllr Bones was seeking a review of the Committee's decision and that he disputed the findings of Mr Kitson.

Mr Mac Caba noted that the Committee had considered the actions of Councillor Bones and would not have reached the decision (by majority) that it did had it not considered all aspects of the Investigator's report, namely, Councillor Bones' actions leading to the complaint being raised as well as his verbal intent expressed to the Investigator under interview. The decision that there was a breach was based on the evidence as 'a whole' and was not limited to Councillor Bones' interview answers.

Mr Mac Caba stated that he could not see any reference in the documents reviewed by him where Councillor Bones stated that he was acting "privately" and not in his capacity as a Councillor.

Mr Mac Caba referred to paragraph 8.15 of the initial investigation report that was referred to in Councillor Bones' letter of request for review which reads *"it does not appear that the councillor was seeking to increase his personal profile, as his name did not appear in the story, however, we believe it more likely than not that the Councillor's motivation was, at least in part, based upon an intention to push his political agenda."* Mr Mac Caba noted the caveat within the statement of *"..at least in part..."*, which suggested that political motivations were not the only aspect of the conclusions arrived at by Mr Kitson.

In summary, Mr Mac Caba agreed with the Committee's decision of the 7 December 2022 that Cllr Bones had breached Part 1 Paragraph 1 of the Code of Conduct. He also agreed with the decision of Committee that Part 1 Paragraph 4 of the Code of Conduct had not been breached and that the sanctions originally proposed by the Committee were commensurate with the findings of the reports.

The Committee met on 8 March 2023 and considered Cllr Bones' review request with the benefit of the report received from Mr Mac Caba and one of the Authority's Independent Persons, Dr Stuart Green, who was in agreement with the original decision and the sanctions.

The Committee resolved to confirm its original decision and sanctions set out above.