

DECISION NOTICE:

No Further Action

Complaint Reference – FS-Case-612868811

1. The Governance Lawyer has considered a complaint submitted by Becky Land concerning the alleged conduct of Councillor Gardener of Woodland Parish Council.
2. The system of regulation of councillor conduct in England is governed by the Localism Act 2011. Local authorities are under a duty to promote and maintain high standards of conduct by their elected members and co-opted members. Every local authority must have a code of conduct for its members, which must be consistent with the 'Seven Principles of Public Life': selflessness, honesty, integrity, objectivity, accountability, openness, and leadership. The code of conduct must also make provision for the registration and disclosure of pecuniary and other interests.
3. Local authorities, other than a parish council, must also have in place arrangements under which allegations that a member has failed to comply with the authority's code of conduct can be investigated and decisions on allegations can be made. As part of those arrangements, they must appoint at least one Independent Person whose views must be sought and taken into account before making a decision on an allegation that it has decided to investigate.
4. Woodland Parish Council has adopted a Code of Conduct for its Members, which is available for inspection on its website.
5. Durham County Council has adopted and published a procedure for how allegations that one or more of its members, or members of a parish council in respect of which the County Council is the Principal Authority, has failed to comply with the relevant authority's code of conduct for members can be investigated and decisions on allegations can be made.
6. This complaint was assessed in accordance with Durham County Council's Procedure for Member Code of Conduct Complaints ("the Procedure").
7. The Procedure requires the Monitoring Officer to ensure that all Member Code of Conduct complaints are assessed as soon as reasonably possible, and normally within 20 working days. The Monitoring Officer, in consultation

with the Independent Person where appropriate, will ensure that the complaint is considered and decide if any action should be taken on it.

8. The Monitoring Officer has delegated responsibility for the initial assessment of Member Code of Conduct Complaints to the Governance Lawyer.
9. Following initial assessment of the complaint, there are four possible outcomes:
 - (a) That no action should be taken in respect of the complaint;
 - (b) To seek local resolution;
 - (c) To refer the complaint for investigation;
 - (d) To refer the complaint to the Standards Committee.
10. This decision notice is produced to record the decision taken following initial assessment and includes the main points considered, the conclusion and the reasons for that conclusion. It will be available for inspection at the offices of Durham County Council for 6 years beginning with the date of the decision.

Complaint

11. On 8 May 2024 the Governance Lawyer received a complaint from the Complainant alleging that the Subject Member broke GDPR rules by passing her email address and the contents of an email to all Members of Woodland Parish Council, excluding the then Chair and Clerk of the Parish Council. The Complainant states that she had asked the Subject Member not to do this.
12. The Complainant also alleges that she was belittled and humiliated by the Subject Member and that the Subject Member has refused a request for information and that she has been denied the right to reply.
13. As part of her complaint the Complainant provided some email correspondence.

Potential breaches of Woodland Parish Council's Code of Conduct:

The allegations in respect of the complaint relate to a potential breach of the following paragraphs of Durham County Council's Code of Conduct as adopted by Pelton Parish Council:

(j) Always treat people with respect, including the organisations and public they engage with and work alongside;

(l) Not disclose information given to them in confidence by anyone or information acquired, which they believe, or ought reasonably to be aware, is of a confidential nature, without express authority and/or unless the law requires it.

Response of the Subject Member

14. In response to the allegation regarding the alleged breach of an email address and contents of an email being disclosed to Members of the Parish Council, the Subject Member has stated that the Complainant's email address was given to all Members of Woodland Parish Council at her request, by her husband Mr Land on 15 March 2024, in the form of an open letter that the Complainant had written to all Parish Councillors. The Subject Member has provided a copy of that letter.
15. The Subject Member has stated that the email on 2 May 2024 which the Complainant refers to, was copied to all Parish Council Members by the Complainant herself. The Subject Member states that she 'replied to all' as she did not understand what the Complainant was talking about, and she required a translation from other Councillors before she could reply. She states that she asked the Complainant not to contact her again as she has been subjected to stalking by the Complainant since she objected to her re-joining the Parish Council in August last year.
16. The Subject Member states that despite asking the Complainant to not contact her again, she continues to follow her, take photos and videos of her and her granddaughter without their permission and is trying to blackmail her into silence at Parish Council meetings by threatening to post on social media, a video of her which she alleges has been edited and manipulated. The Subject Member also believes that the Complainant regularly posts misinformation and lies about her on social media, although she does not use her name and will refer to her as a "certain person" however, the Subject Member considers that most people in the village know they are referring to her.
17. The Subject Member considers that the supporting documents provided with her complaint do not include any evidence of allegations of her belittling, humiliating her or refusing her request for information. She states that she has no idea when these actions are supposed to have taken place. She states that she tries very hard not to speak to the Complainant or to have any contact with her at all as she distorts everything she says and does and then posts it onto social media, to which she has no access as she has blocked her from replying. The Subject Member states this occurs on the Woodland Community Group Facebook page and that anyone who disagrees with the Complainant and her husband is blocked from this account.
18. The Subject Member states that the police have advised her to have as little contact with the Complainant as possible due to her previous history of harassing people. She states that she was obliged to contact her about information relating to an incident in Woodland Playpark with children in the care of Woodland Community Group as her husband passed her enquiries on to the Subject Member. She states that these incidents could have led to the Parish Council being sued as owners of the playpark and

she wrote to the Complainant's husband after discussing the incident with the vice-chairman of the Parish Council when he asked her to gather more information.

19. The Subject Member considers that the Complainant's complaints against her are entirely vexatious and vindictive and have no basis in fact.

Decision

20. The Governance Lawyer has decided that no further action is required in respect of this complaint.

Reasons for decision

21. The Governance Lawyer understands that there have been ongoing issues between the Complainant and the Subject Member for a sustained period of time.
22. In respect of the allegations, the Governance Lawyer would note that matters of alleged data breaches should be handled by the Information Commissioner's Office. However, the Governance Lawyer notes that the Complainant has previously contacted all Members of the Parish Council and therefore her email address was not 'confidential'. It is also noted that the Subject Member had contacted the Complainant following advice from the previous Clerk who is the Complainant's husband, regarding the playground. The Governance Lawyer would also note that the information requested by the Subject Member would have concerned Members of the Parish Council generally, and that the Members would have been entitled to this information under their "need to know" rights if there was a potential risk of litigation to the Parish Council, and therefore the Subject Member is likely to have had a legitimate basis for sharing this with other Members.
23. It is not evident that the Subject Member has attempted to belittle or humiliate the Complainant, rather it appears that the Subject Member was simply seeking to resolve a potential issue with the playground on the advice of the vice-chair. The Governance Lawyer therefore recommends no further action in respect of this complaint.

Right of Appeal

24. Code of Conduct complaints are governed by the provisions set out in the Localism Act 2011. The Localism Act 2011 does not allow a right of appeal and this decision is final.

Terms of reference

The Localism Act 2011

Signed

Mark Turnbull
Governance Lawyer

Date: 15 November 2024