

DECISION NOTICE:

Local Resolution



Complaint Reference **FS-Case-577721473, FS-Case-5787378695 and FS-Case-611093168**

1. The Governance Lawyer has considered three complaints concerning the alleged conduct of Councillor Janet Gardener of Woodland Parish Council. The complaints have been submitted by Cllr Alistair Rutter, Councillor Robert Teasdale (former Chair of Woodland Parish Council and Mr Simon Land (the former Clerk to the 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 have adopted a Code of Conduct for Members, and this is available for inspection on the Council's 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(s)

11. On 15 January 2024 the Governance Lawyer received a complaint from Cllr Alistair Rutter of Woodland Parish Council (*FS-Case-577721473*) and on the 18 January 2024 the Governance Lawyer received a complaint from the then Chair of Woodland Parish Council, Cllr Robert Teasdale (*FS-Case-578378695*). On the 2 May 2024 the Governance Lawyer received a further a complaint from the then Clerk, Mr Simon Land (*FS-Case-611093168*).
12. Due to the similarity of the complaints the Governance Lawyer has combined the complaints into a single decision notice and a summary of each has been provided below.

FS-Case-577721473

13. Cllr Rutter alleges that during a Parish Council meeting on 11 January 2024, the Subject Member harassed and bullied Mr Land, the then Clerk of the Parish Council, who was in his opinion, trying to do his job. Cllr Rutter alleges that the Subject Member *“was interrupting, picking on the Clerk, being disrespectful of the Clerk and belittling him at every given opportunity!”*
14. Cllr Rutter considers that the Subject Member’s conduct was “outrageous” and her behaviour “disrespectful”. He notes that the incident he complains of happened in front of the entire Parish Council and several members of the public.
15. Cllr Rutter explained that there was an ongoing dispute between Mr Land, his wife and the Subject Member. Cllr Rutter also explained that Mr Land is the son-in-law of Cllr Teasdale, the (former) Chair of the Parish Council. Cllr Rutter noted that he had no idea what the dispute involved, but that the Subject Member admitted the seriousness of the matter, in that it involved the Police investigating her over harassment. Cllr Rutter alleges that during the meeting the Subject Member kept bringing up the dispute and called Mr Land a liar. He states that the Subject Member was goading Mr Land who he considered remained calm and professional.

16. Cllr Rutter states that it *“was quite an unnerving experience as [the Subject Member] was very hostile and intimidating towards the Clerk”*. He notes that the (former) Chair attempted to calm the situation down and pleaded with the Subject Member if they could move on with the discussion. Cllr Rutter stated that he felt sorry for Mr Land, feeling that he was victimised.
17. Within Cllr Rutter’s complaint he also alleges that the Subject Member was disrespectful to the (former) Chair of the Parish Council. After a request from the Governance Lawyer, Cllr Rutter provided further information about this. He alleges that the Subject Member kept talking over the Chair and that the Subject Member was irate with Mr Land and that she raised her voice at him on two occasions.
18. Cllr Rutter notes that he felt the situation did get out of hand and that he intervened by stating that he thought the Clerk was doing a great job in a very difficult situation. He states that he said to the Subject Member that her judgment was clouded in which she disagreed, and he said, *“we’ll have to agree to disagree”*.

FS-Case-5787378695

19. Cllr Teasdale makes similar accusations that during the same Parish Council meeting mentioned above, the Subject Member made bullying remarks and a number of accusations towards Mr Land.
20. Cllr Teasdale also alleges that during the meeting the Subject Member attempted to intimidate Mr Land to change the minutes of the previous meeting and accused him of a breach of trust and questioned his integrity.
21. Cllr Teasdale further stated that the Subject Member commented on an item on the agenda relating to a previous and current complaint against her and reiterated her comments about a member of the public that the complaint relates to. He states that she attempted to prevent Mr Land from reading out a piece of correspondence and he considers that this was an attempt to prevent Mr Land from doing his job.
22. In order to assist with the complaint, the Governance Lawyer requested that Mr Land provide them with an audio recording of the meeting in question. A copy of which has since been provided.
23. It is understood that Cllr Teasdale is no longer the Chair of the Parish Council.

FS-Case-611093168

24. Mr Land notes that he took up the post of Clerk in August 2023 and that the Subject Member has made a number of accusations against him for breach of trust and has questioned his integrity on two occasions.
25. Mr Land considers that the Subject Members actions could have a damaging effect on a company of which he is a director to, as the work they bid for requires them to have nationally accredited security clearance.

26. Mr Land also accuses the Subject Member of making several defamatory comments both in meetings and emails and that she has been abusive and acted in a bullying manner. He also states that she has accused him and Cllr Teasdale of collusion and questioned his ability to perform his duties.
27. Mr Land states that it is evident that the Subject Member is acting on behalf of a small section of the community to damage the reputation of himself and Cllr Teasdale. On two occasions he notes that the Subject Member has made requests for information purporting to be acting on behalf of the Parish Council when there was no agreement of the Council to act on their behalf.
28. At the meeting of the Council on 14 March, Mr Land states that the Subject Member closed a section of the meeting to the public without a motion or a vote being taken, contrary to legislation. He notes that during the closed section of the meeting she read out a document about him which he alleges was produced by the Subject Member's daughter, who is also the Chair of the Woodland Village Hall management committee. He adds that this fact is not on the Subject Member's declaration of interests, and she has not declared it in any meeting. He states that as the Parish Council are the Custodian trustees of the Woodland Village Hall, he considers this to be a conflict of interest.
29. Mr Land states that he was told that the document read out by the Subject Member contained information about him and accused him of various acts. He states that he has not seen the document as the Subject Member has refused to give him a copy. He states that he has requested the document twice under a subject access request, which he alleges that the Subject Member has refused to comply with.
30. In an attempt to inform the Members and move the Parish Council forward, Mr Land states that he has presented the nationally agreed Officer Councillor Protocol to be accepted by Members but alleges that the Subject Member has so far refused to accept it, stating on two occasions that it was a template which needed to be amended for use by Woodland Parish Council. He states that she disrupted the meeting to such an extent that no vote was taken.
31. Mr Land further alleges that in a later email to him regarding the closed section of the March meeting and her alleged refusal to disclose the said document to him, he states that the Subject Member quoted sections of the proposed Protocol as evidence that she was correct in her actions and did not need to comply with the request.
32. Mr Land also accuses the Subject Member of being abusive to his wife on a number of occasions and alleges she made derogatory comments about the Woodland Community Group of which they are both members. He states that the Subject Member has also complained to the Teesdale Area Action Partnership and the Fun and Food Team that he and his wife prevented the Subject Member's grandson from attending an event which was controlled via Durham County Council booking system.

33. Mr Land alleged that the abuse the Subject Member has given him has caused him significant distress and caused him to consider resigning his position as Clerk. He states that there are a number of witnesses to the Subject Member's actions, all of whom are Members of the Parish Council and two County Councillors that represent Evenwood and Barony and members of the public who have attended meetings of the Council.
34. Mr Land stated that he had not taken the action of making the complaint lightly as he does not believe that it will prevent the Subject Member from continuing her "*abusive and bullying and derogatory comments*". He states that in the past he and others have reminded the Subject Member that as an employee of the Parish Council, he has the right to be able to work in a safe environment without being subject to bullying and abuse either verbally or by any other media.
35. It is understood that Mr Land has now resigned from his position as Clerk to the Parish Council.

Potential breaches of Woodland Parish Council's Code of Conduct

36. The allegations in the complaints relate to a potential breach of the following paragraphs of Woodland Parish Council's Code of Conduct for Members:
 - (j) Always treat people with respect, including the organisations and public they engage with and work alongside;
 - (m) Not to bully or harass any person (including specifically any council employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of the code of conduct.

Response of the Subject Member in relation to FS-Case-5738378695 and FS Case-577721473

37. The Subject Member has given a joint response in respect of complaints FS-Case-5738378695 and FS-Case-577721473.
38. The Subject Member considers that it is her who is being bullied as she is being bombarded by "*false and vexatious complaints*" from Cllr Teasdale's daughter as well as Cllr Teasdale and Cllr Rutter and was being obstructed at every opportunity by the then Clerk.
39. The Subject Member further considered that the purpose of these 'false complaints' was to stop her from expressing her opinions in the Parish Council meetings and to allow the (former) Clerk to have full control of the actions of the Parish Council. However, the Subject Member considers that as a Parish Councillor, she has a responsibility to not be deterred from acting in the interests of the Parish Council and to contribute to decision making in an open and transparent way.

40. In respect of the statement that Cllr Rutter made that she is under investigation by the Police for harassment, the Subject Member has stated this is not true. She states that Mr Land's wife reported her to the Police for harassment in November 2023 to support her complaint against her, but that the Police had taken no action. She denies harassing her and states that there was no evidence to support her false claims.
41. The Subject Member requested to speak with the Independent Person as she felt her mental health had been negatively affected by "*the barrage of abuse, bullying and lies*" that she considers she has been subjected to since becoming a Parish Councillor. Following speaking with the Independent Person, the Subject Member provided further comments below.
42. The Subject Member states that in her opinion, the audio recording of the Parish Council meeting does not support the version of events purported by the Complainants.
43. The Subject Member denies calling Mr Land a liar. She states that she did ask him to produce evidence during the meeting when he accused her of sending him over twenty text messages about the Woodland Community Group as he had his phone in front of him, but she states he was unable to do so, as she does not believe that the messages exist.
44. The Subject Member states that when Cllr Rutter said he thought Mr Land was doing a great job she states that she let him speak and said he was entitled to his opinion but that she did not agree with him. She also states it was her, not Cllr Rutter that said, "*we will have to agree to disagree.*"
45. In respect of Cllr Teasdale's complaint, the Subject Member does not consider that the audio recording supports his accusation of bullying remarks and a number of other accusations. The Subject Member states that she expressed her opinions in the meeting as she believed it was her duty to do so in the interests of local people. However, the Subject Member denies shouting, swearing, interrupting or making any accusations.
46. The Subject Member states that she did ask Mr Land to make some amendments to the minutes of the last meeting as she did not believe they were accurate.
47. In respect of the 'Farmer Christmas' event the Subject Member states she did not stop Mr Land from reading out a piece of correspondence but did question why they were talking about the Woodland Community Group in a Parish Council meeting. She states that Mr Land had said it was because the Parish Council had given the group a grant in the past, which she accepted and allowed him to continue.

Response of the Subject Member in relation to FS-Case-611093168

48. In relation to the complaint from Mr Land, the Subject Member believes that the Complainants have taken a 'scatter gun' approach to her daring to speak and have her own opinions at Woodland Parish Council meetings.

49. The Subject Member notes that she has never denied that she objected to Mr Land's wife re-joining the Parish Council in November 2023 and accepts she has criticised Mr Land's work as a Parish Clerk when she considered that it needed to be brought to the attention of other Councillors.
50. The Subject Member, however, considers that as a matter of free speech she is entitled to have an opinion in the UK which she considers is positively encouraged in the Parish Council's code of conduct. However, the Subject Member denies ever making abusive or bullying comments. She accepts that she does have strong opinions and she will express these politely at Parish Council meetings if she feels that these issues need to be discussed.
51. The Subject Member notes that Mr Land's wife has reported her to the police on three separate occasions for harassment and that she has spoken to the police about this matter, and no further action has been taken as she has never harassed anyone.
52. The Subject Member considers that some emails which have been provided to the Governance Lawyer from Mr Land have been taken out of context but that she would not change the response if she were to send them again.
53. In respect of the closed section of the meeting on 14 March 2024, the Subject Member states that she has explained to Mr Land on four separate occasions that she cannot give him a document that does not exist. She states that the only document that she referred to in that part of the meeting were her own notes, which listed 27 different concerns she had about his performance as a Parish Clerk, that she wished to bring to the attention of other Councillors. She states that the notes were to ensure that she could be accurate about dates, time and places etc when discussing the issues she raised.
54. In relation to her daughter being Chairman of the Woodland Village Hall Committee, the Subject Member states that this had nothing to do with the 14 March meeting or any other Parish Council business and she has no connection with the village hall other than that she has attended several events there.

Independent Person's Views

55. As part of the response to complaints FS-Case-5738378695 and FS-Case-577721473 the Subject Member requested to speak with the Independent Person.
56. The Independent Person stated that it seems *"there is a lot of history between all parties involved in these complaints, which involve previous complaints and public arguments/confrontations between Cllr Gardner and the complainants' friends or relatives. The complaint to the council is just the latest vehicle for continuing this ongoing feud, as with most of these things there are faults on both sides..."*

Decision

57. The Governance Lawyer has decided that local resolution is required in respect of this complaint.

Reasons for decision

58. The Governance Lawyer has carefully considered the complaints and the Subject Member's responses.
59. Having listened to the recording of the Parish Council meeting on 11 January 2024, the Governance Lawyer accepts that the Subject Member does raise several issues as regards to the accuracy of the minutes including a decision about a social media policy, a 'potential' legal challenge and the recording of a vote which took place during the co-option of a Councillor. The Governance Lawyer notes that one of the candidates of this co-option was Mr Land's wife and it was agreed by Members during the meeting that this vote was not recorded accurately.
60. The Governance Lawyer considers that the Subject Member was entitled to question the accuracy of the minutes and notes that it was agreed during the meeting that the minutes would be amended, and circulated for comment and if agreed, the Chair would sign them. The Governance Lawyer considers this to be ordinary practice at Parish Council meetings where the accuracy of minutes may be questioned, before they are approved. Further, the Governance Lawyer, having listened to the recording, has concluded that a reasonable person attending the meeting would not have considered that the Subject Member behaved disrespectfully towards Mr Land during this interaction.
61. In respect of the allegations of bullying of Mr Land and Cllr Rutter having to intervene during the meeting, it is understood that this followed from an interaction during a discussion regarding a Code of Conduct complaint which had been submitted by Mr Land's wife concerning the Subject Member. The complaint in question concerned the suitability of Mr Land's wife as a candidate when the co-option vote had taken place. The Subject Member stated that she thought what was said during the meeting where the co-option had taken place was confidential. Mr Land had responded to state that there is no expectation for confidentiality and that the meeting was a public meeting. The Subject Member then responded to state that she was disturbed that what was discussed during the meeting was passed on to Mr Land's wife and that she considered it to be unprofessional and a breach of trust. It is at this point that Mr Land asked the Subject Member if she was questioning his integrity, to which she responded yes. Cllr Rutter then intervened to state that he considered that Mr Land was doing a wonderful job to which the Subject Member disagreed and stated that they would have to agree to differ.
62. The Governance Lawyer notes that the Parish Council meeting where the co-option had taken place was a public meeting, and therefore any member of the public could have heard what the Subject Member said and could have relayed what was said to Mr Land's wife. It is, however, the usual duty of local authority officers to treat as confidential any information which they receive as part of their official duties, and therefore there was some reasonable

justification for the Subject Member's concerns about Mr Lands actions as role of Clerk in this respect, particularly as he could well have anticipated that disclosing this information would only serve to worsen relations between his wife and the Subject Member.

63. In respect of the impact statement regarding the 'Farmer Christmas' event, the Subject Member asked why it was being discussed as it was not a Parish Council event. Mr Land responded to state that this was because the Parish Council had previously provided a donation for the event. The Subject Member then went on to question why it was not on the agenda and Mr Land explained this was because the report had just been finalised. Mr Land also noted that he was wearing a different 'hat' when presenting the 'Farmer Christmas' report. The Subject Member asked if in future, reports which are not directly related to the Parish Council could at least be put on the agenda. Cllr Teasdale then intervened and asked Mr Land to read out the statement, commenting, *"before [the] complaints and backstabbing starts."* The Subject Member then retaliated to this stating *"I'm not sure how that's relevant if you want to talk about complaints and backstabbing, I've got a wealth of stuff I can tell you about."* During the discussion about the event, the Subject Member asked about a previous complaint of the event and Mr Land responded stating *"with all due respect Janet, you sent me about twenty texts asking for the accounts last year"*. The Subject Member stated that she sent two messages in which he refused to provide any further information, so she left it at that. A disagreement over this followed with the Subject Member asking Mr Land to show these messages if this is the case as he had his phone in front of him.
64. The Governance Lawyer notes that the Subject Member was entitled to ask why the item was being brought to the meeting under any other business, in particular as there was no written report and as there does not appear to have been any explanation why it was considered the matter needed to be dealt with urgently. In addition, the Subject Member's anxiety about this item of business may have been increased by the Clerk's comment that he was wearing a "different hat", which was presumably a reference to his membership of the Woodland Community Group. The Governance Lawyer also notes the Clerk's reference to the Subject Member as "Janet" rather than "councillor" and is of the view that the Parish Council should consider whether the conduct of meetings has become too informal, and whether this may be contributing to friction between Officers and Members.
65. In respect of the allegation that the Subject Member was disrespectful to the Chair of the Parish Council, the Chair's comment about "complaints and backstabbing" did not assist with maintaining a respectful level of debate, and it is likely that on reflection, both parties would have realised it was likely they had fallen short of the standard expected by the Code of Conduct.
66. The Governance Lawyer would further note that the conduct of the Parish Council meeting on 11 January 2024 did appear unconventional in that it was the Clerk who took the lead in addressing agenda items rather than the Chair. Whilst it is up to individual Councils how they conduct their meetings, the Governance Lawyer is of the view that by conducting them in this way there is

the potential for Members to be perceived as being in opposition to or being critical of the Clerk. The Governance Lawyer therefore considers that the Parish Council would benefit from arranging training on the roles and responsibilities of Members and Officers of Parish Councils, and from adopting, a Member Officer Protocol, if it has not already done so.

67. In relation to the meeting held on 14 March 2024 where the Subject Member is alleged to have read out a document concerning Mr Land as Clerk, the Governance Lawyer notes that the Parish Council's Standing Orders state little about how an issue should be raised concerning performance issues of employees, and therefore whilst it may have been preferable for the Subject Member to seek to deal with these issues at a separate closed meeting, there does appear to be some justification for the Subject Member to seek to close the meeting so that these issues could be discussed. The Governance Lawyer notes however, that closing a Parish Council meeting requires a resolution of the meeting made in accordance with Section 1 of the Public Bodies (Admission to Meetings) Act 1960.
68. With regards to the Subject Member not voting on the proposed Member Officer Protocol, it is up to the Chair to put agenda items to a vote and for Members to vote on items collectively. In addition, the Chair has powers to ensure that meetings are not disrupted.
69. In respect of the Subject Access Request that Mr Land made, if Mr Land is dissatisfied with his response from the Subject Member, his complaint should be addressed to the Information Commissioner's Office to determine.
70. The Parish Council's Standing Orders reference subject to the Council's policy on the handling of grievance matters however, there does not appear to be such a policy. The Governance Lawyer would suggest that the Council look into adopting such a policy.
71. The Governance Lawyer does not consider that the Subject Member's daughter's role as Chair of the Woodland Village Hall Committee to be an interest that would be required to be registered on her register of interests and it would be a matter of judgment for the Subject Member whether this role could reasonably be considered to be an "other relevant interest" in a particular item of business at a Parish Council meeting.
72. The Governance Lawyer considers that a proportionate way of resolving this complaint is for the Parish Council to arrange training on the respective roles and responsibilities of Members and Officers of Parish Councils, and that this training should be organised by the Parish Council within 3 months of the date of this Decision Notice. In addition, the Governance Lawyer recommends the Subject Member undertakes Code of Conduct training with a specific focus on the respect provision, however, it is noted that all Members of the Parish Council would benefit from this training. The training should be delivered within 3 months of the date of this Decision Notice.

Right of Appeal

73. 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 J Turnbull*

Date: 22 August 2024