

**MANSFIELD DISTRICT COUNCIL - MEMBERS' CODE OF CONDUCT:
DECISION NOTICE**

Complaint Reference MDC2023 – 04

Elected Member: Councillor Tempest-Mitchell

Decision: Breach of Code of Conduct

Complaint

A complaint was received about the conduct of Councillor Richard Tempest-Mitchell, an elected councillor of Mansfield District Council, from a member of the public (the Complainant) on 6th June 2023.

A general summary of the complaint is set out below:

The Complainant made a number of complaints about Councillor Tempest-Mitchell including breach of the requirement under the Code of Conduct to treat others with respect. It was alleged that he repeatedly shown a lack of respect to those involved in a resident action group via Whatsapp and in person, particularly the women in the group. It was alleged that Councillor Tempest-Mitchell had made condescending remarks to some female members about their male partners and that he had ignored messages from females but would reply to their partners or other male members of the group.

The complaint was referred for investigation by the Monitoring Officer in consultation with the Independent Person in July 2023. The Council's Corporate Assurance Manager, (Investigating Officer) was appointed as the independent investigator. Similar complaints had received from others around the same time. They were treated as witnesses in this complaint, rather than separate complaints, in accordance with the Council's Arrangements for Dealing with Code of Conduct Complaints. The investigation concluded in February 2024 and the Investigating Officer concluded that Councillor Tempest-Mitchell had breached the paragraph 4.01.3.1 of the Code which states

When acting in your role as a member of the authority:

4.01.3.1 Do treat others with respect.

The Investigating Officer concluded that there has been instances of disrespectful conduct by Councillor Tempest-Mitchell, particularly in the way he had communicated with the Complainant and other females. He considered that certain communications were condescending and demeaning to female recipients as well as their being evidence that he had ignored communications from some females.

No other breaches were found.

The matter was referred for to a Hearing Panel to determine whether there had been a breach of the Code of Conduct in respect of paragraph 4.01.3.1.

On 22nd May 2024, the Hearing Panel (the Panel) sat at Mansfield District Council's Civic Centre to determine the complaint. The Panel comprised of Councillor Bell (Chair), Councillor Answer and Councillor Moxon. The Panel considered the following information:

- Report of the Monitoring Officer
- Council's Arrangements for dealing with Code of Conduct Complaints
- Hearing Procedure
- Investigating Officer's report
- Schedule of Evidence

During the hearing, the Panel heard from the Investigating Officer and Councillor Tempest-Mitchell. The Complainant was not in attendance.

The Panel were advised by the Monitoring Officer and heard the views of the Independent Person, Neil Stent.

Decision

In accordance with Sections 28(6) and (7) of the Localism Act 2011, having carefully considered the allegation in accordance with the Council's Arrangements for Dealing with Complaints about breach of the Code of Conduct, having considered all the information before them and in consultation with the Independent Person, the Panel by majority vote accepted the Investigation Officer's findings and determined that Councillor Tempest-Mitchell had breached paragraph 4.01.3.1 of the Code.

Reasons for Decision

Section 27(2) of the Localism Act 2011 requires all relevant authorities to "adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity."

Mansfield District Council has adopted such a Code of Conduct which reflects this and states:

This Code applies to you as a member of this authority when you act in your role as a member and it is your responsibility to comply with the provisions of this Code.

It was not in dispute that Councillor Tempest-Mitchell was acting in his official capacity at the relevant times as the communications at the centre of the complaint related to queries from and interactions with local residents as their Ward councillor.

It was the majority view of the Panel that, on the balance of probabilities, objectively considering the allegation and evidence presented, there was a breach of the Code of Conduct, in that Councillor Tempest-Mitchell's communications with the Complainant and other females were disrespectful in breach of paragraph 4.01.3.1 of the Code. The Panel appreciated the background to the allegations as described by Councillor Tempest-Mitchell and, whilst they considered that he was not acting in malice, they concluded that a reasonable person would consider the conduct disrespectful.

Sanctions

Having determined that the Code had been breached, the Panel considered the sanctions available to them under the Council's Arrangements for dealing with Code of Conduct Complaints. The Panel sought representations from Councillor Tempest-Mitchell but no further comments were made. The Panel also sought the views of the Independent Person.

Considering the length of time that had passed since the conduct complained of and the background provided by Councillor Tempest-Mitchell the Panel determined not to impose any further sanctions, noting the censure from the finding of the breach. The Panel would have considered a requirement for Councillor Tempest-Mitchell to attend training had there been subsequent complaints of a similar nature.

Notification of Decision

This decision notice has been sent to Councillor Tempest-Mitchell, the Complainant and the Independent Person and will be reported to the next meeting of the Council's Governance and Standards Committee.

Right of Appeal

There is no further right of appeal. Anyone dissatisfied with this decision may however write to the Local Government Ombudsman. Further details are on the Local Government Ombudsman's website. It should be noted that there is no right of appeal against the decision but a complaint that due process was not followed may be considered.

Sara Pregon

Monitoring Officer

23rd May 2024