

Agenda Item No:	6	
Committee:	Conduct Committee	
Date:	7 February 2017	
Report Title:	Initial Consideration of a Member Conduct Complaint – Councillor Alan Lay	

1 Purpose / Summary

To consider a complaint under the Member Code of Conduct against Councillor Alan Lay of Wisbech Town Council

2 Key issues

- A complaint has been raised by Councillor Steve Tierney about the Conduct of Councillor Alan Lay at a meeting of Wisbech Town Council.
- The original complaint from Councillor Tierney and response from Councillor Lay is attached. An informal resolution was explored but was not possible on this occasion.
- The information within this paper was considered through the Conduct Committee's pre-screening process. The panel of the Chairman of the Conduct Committee, Independent Person and Deputy Independent Person determined that it was appropriate for the complaint to go forward for consideration by Conduct Committee as they felt a breach of the Code of Conduct may have occurred. A note of this meeting is included in the pack.
- The Conduct Committee is asked to consider the complaint and determine if it discloses a breach of the Member Code of Conduct, and if so what next steps should be taken.

3 Recommendations

- For Members to consider the complaint and response and make a determination as to whether a breach of the Member Code of Conduct has occurred.
- For Members to consider what next steps are required in relation to this complaint.

Wards Affected	All
Forward Plan Reference	N/A
Portfolio Holder(s)	
Report Originator(s)	Carol Pilson, Monitoring Officer
Contact Officer(s)	Carol Pilson, Monitoring Officer
Background Paper(s)	None

1. Background / introduction

1.1 Councillor Tierney submitted a complaint about the conduct of Councillor Lay on the 20th December 2016. This related to Councillor Lay's conduct at a meeting of Wisbech Town Council during which Councillor Lay stated that Councillor Tibbs, Mayor of Wisbech had threatened him. Councillor Tierney has stated that he believes this comment brings Wisbech Town Council and the office of the Mayor into disrepute. Councillor Lay was offered the opportunity to respond to this complaint and this is attached in the agenda pack. As with all complaints, it was attempted to resolve this informally, however this was not possible on this occasion and Councillor Tierney confirmed he wished to pursue his complaint to the next stage of the process.

1.2 The complaint has been considered through the pre-screening process conducted by the Chairman, Independent Person and Deputy Independent Person on the 24th January 2016. Following an extensive discussion, their decision was that a breach of the Code of Conduct may have occurred, and they have therefore referred the complaint to the Conduct Committee.

2. Considerations

2.1 Members must consider the complaint against the Member Code of Conduct.

2.2 Members must consider that the Member who is subject to the complaint (Councillor Lay) was acting in their capacity as a Councillor for the Code of Conduct to apply.

2.3 Members are able to make an initial determination at today's Committee meeting based on the information within the report.

2.4 If Members do not consider that there is a breach of the Code of Conduct or that there is no reasonable prospect of any breach being disclosed or that the complaint does not merit further investigation or that the investigation would not disclose new information then no further action is taken in respect of the complaint save for notifying the Member and the complainant.

2.5 If Members are minded to make a decision today based on the information held in the agenda pack that a breach of the Code of Conduct has occurred then the following sanctions are open to the Committee as set out in the Council's Constitution:

- Formal letter of reprimand;
- Motion of censure at the Conduct Committee;
- Recommendation to Full Council (or the Town or Parish Council) for a motion of censure;
- Formal request to the Members Group Leader for their removal from Committee(s);
- Offer additional training for the Member;
- Withdraw facilities (or recommend to the Town or Parish Council) that facilities such as computers, email, or internet access be suspended for a period of time;
- Exclude (or recommend to the Town or Parish Council) the Member from the Council's offices or other premises or restrict access to certain officers; excepting access as necessary for the attendance at meetings of the Council, Committees or Sub-Committees;
- Publication of formal notification of breach in a newspaper circulating in the area.

2.6 Where Members consider that there is a reasonable prospect that a breach of the Code of Conduct has occurred they can give consideration as to whether or not there should be an investigation of the complaint where further evidence or detail can be sought.

2.7 Members should consider the following points in determining whether an investigation should occur:

- Has the Complaint already been investigated, or is it already the subject of investigation?
- Is the Complaint more appropriately dealt with through another regulatory channel?
- Is the complaint about something which happened so long ago that there would be little benefit in taking action now?
- Is the complaint too trivial to warrant further action?
- Does the complaint appear to be malicious or simply tit for tat?

2.8 Where Members consider that an investigation is appropriate the Monitoring Officer, in consultation with the Chairman of the Committee and the Independent Person will define the scope of an investigation and be asked to make suitable arrangements for such an investigation to be carried out.

2.9 Members are asked to give any particular comments on the scope or direction of the investigation if necessary.

3. Recommendations

- For Members to consider the complaint and response and make a determination as to whether a breach of the Member Code of Conduct has occurred.
- For Members to consider what next steps are required in relation to this complaint.

Carol Pilson

From: Steve Tierney
Sent: 20 December 2016 18:21
To: Carol Pilson
Subject: Conduct Committee Complaint

Hi,

I would like to make a complaint about the behaviour of Cllr Alan Lay during a meeting of Wisbech Town Council last night.

Cllr Lay was making a comment on the minutes of the previous meeting and during his comments he stated that the Chairman / Mayor of Wisbech Town Council, Cllr Garry Tibbs, had "threatened" him at the previous meeting.

At this point the whole room gasped, mostly because we were almost all at the previous meeting and there was no "threat" made or anything like it.

Given that claiming to be "threatened" was quite a strong statement that risked damaging the Mayor's reputation and the reputation of the Council, I then commented that I felt Cllr Lay should withdraw that remark as perhaps he had mis-stated. Given the opportunity to rephrase or withdraw, Cllr Lay did neither and restated his claim that the Mayor had "threatened" him.

Claiming to have been threatened during a meeting by the Chairman of that meeting who is also the Mayor of Wisbech is a very strong claim indeed. I was at the previous meeting to which he referred and heard no such threat. I do not believe anybody else did either. Cllr. Lay should apologise and withdraw the remark.

The reason I am bringing this complaint to you is because I feel that Cllr Lay's strong and false language risks bringing the Council and the Office of the Mayor into disrepute. It is unacceptable that this sort of language be used in such a false way and if left unchallenged and allowed into the public domain it would give people reason to think it true. It mostly certainly is not true.

Best Regards,

Cllr. Steve Tierney

- Wisbech Town Council, Medworth
- Fenland District Council, Medworth

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<http://www.stevetierney.org>

<http://www.wisbechconservatives.com/>

Carol Pilson

From: Alan Lay
Sent: 28 December 2016 20:12
To: Carol Pilson
Subject: Reply to accusation from Mr Tierney
Attachments: Reply to accusation from Mr Tierney.docx

Hello Carol Pilson.
Please find enclosed my reply to the accusation from Cllr Tierney.
Thank You
Cllr Alan Lay

Reply to accusation from Mr. Steve Tierney.

Steve Tierney assumes that I am guilty of Misconduct and has reported me to you, and that I should apologise and withdraw my remarks

Mr. Tierney has perceived my remarks that I had been "threatened", as not in order. I will explain. It is his opinion, and I will attempt to describe the definition of "opinion".

It is subjective, an individual's concept based on beliefs, it reflects their upbringing, instilled and biased by their life style and early learning. It is an assessment, a concept, a point of view, it can manifest itself by being stubborn, intolerant and "uncompromising".

The last word above, is often proven with the attitudes of Wisbech Town Council. A proposition for a 20 is plenty speed control was put to WTC. It was thrown out after very little consideration. Yet it has been proven that it is an ideal that has many health and economic benefits.

Steve Tierney is known as a copious blogger. He has been very insulting to many people who do not follow his political calling. He wrote about me as "Lazy Lay" he has used words like "Scumbags" towards other political people and used the term "a media whore" to another political party member. Nothing to be proud of!

We have not complained! Yet he infers within his complaint that what I said was FALSE! So we look at what is "False", a dictionary describes false as Fictitious, Bogus, Dishonest, Concocted, Fake etc. I ask what is false with what I stated. That "Cllr Tibbs stood up from his seat and pointing a finger at me said "Be very careful about what you are going to say." THAT, I consider is a threat. A threat is a warning, a risk, an omen, of repercussions, ominous outcomes, cautionary. I was given a warning! And that, I perceived as a threat!

It is Cllr Tierney's accusation that is FALSE. I am not a vindictive person, but I do not like hypocrisy. Therefore I put it to you that Steve Tierney is out of step with reality, and that he withdraws his words. That they are a rash unfounded statement that comes with bias, that he withdraws his accusation. That no further investigation is necessary.

Alan Lay Cambridgeshire County Councillor and WTC

Born June 1937.

Carol Pilson

From: Steve Tierney
Sent: 04 January 2017 17:52
To: Carol Pilson
Subject: RE: Conduct Committee Complaint

Dear Carol,

Cllr Lay appears to have decided to "double down" by making further false accusations.

Keeping to the point of the original complaint – he was given an opportunity to clarify his remark and continued to demand that he had been "threatened."

I do not wish to play word games with the conduct procedure. If Alan Lay is prepared to publicly state that by "threatened" he did not mean that he was physically or emotionally threatened by the Mayor and that the use of the word simply meant "given a fair warning" and is willing to make that statement clearly and without elaboration, then I am happy to withdraw my complaint and will consider the matter finished from my perspective.

Regards,

Cllr. Steve Tierney

Carol Pilson

From: Alan Lay
Sent: 05 January 2017 15:24
To: Carol Pilson
Subject: Fw: reply re Cllr ST.

Dear Carol.

This pathetic complaint will be getting out of proportion unless common sense by yourself prevails. It is time to stop this escapade now.

Cllr Tierney continues to make a "mountain out of a mole hill". His complaint comes with words like FALSE and UNTRUE, regarding a petty disagreement at the Town Hall.

I have informed you also of the type of language he uses to insult people. He insulted my name, Lazy Lay, scumbags and media whore are also

within his base use of our language. Has he ever apologised for this? NEVER!

He is never amiss to use English for an unnecessary political advantage.

I repeat, I feel that I was threatened by the words "Be very careful about what you are going to say" uttered by Cllr Tibbs. Does he deny they were said?

Cllr Tierney states that my words were false!, he is inferring and states, they are untrue. Ask him if he means I was lying!

His accusation is an insult to me. So my reply is, No, I will not make any apology, instead I ask that he withdraws all accusations, and that he abandons this so obvious political point scoring fiasco.

Alan Lay CCC, and WTC.

Carol Pilson

From: Steve Tierney
Sent: 11 January 2017 21:47
To: Carol Pilson
Subject: RE: Conduct Committee Complaint

Carol,

It is a shame that Alan Lay has decided not to simply amend his words. It would have been simple and honourable to do so.

Given that it seems he immediately went to the press, I expected this would be his position.

I cannot allow this slur on the reputation of the Mayor to be allowed to stand.

It may seem trivial to some, but I think a claim of acting in a threatening way to an elderly man is a downright awful thing to say and his most recent response once again says he "felt threatened" which is a clear inference of menace. That is just plain rotten, and risks bringing the office of Mayor, the individual, and the Town Council into disrepute.

I would like to proceed with my complaint, please.

Regards,

Cllr Steve Tierney

Contemporaneous note from pre-screening of complaint against Councillor Alan Lay, Wisbech Town Council – 24/01/2017

Present: Tina Gambell, Independent Person, Claire Hawden-Beal, Deputy Independent Person, Councillor Sam Hoy, Chairman of Conduct Committee, Carol Pilson, Monitoring Officer (in an advisory capacity.)

Declaration of Interests:

Councillor Hoy declared a non-pecuniary interest due to the fact that she was present when the incident referred to in the complaint took place and because she knows both parties involved. Councillor Hoy took part in the discussion but did not vote.

Decision:

Following an extensive discussion, the Independent Person and Deputy Independent Person both decided there may have been a breach of the Member Code of Conduct in relation to provision 3.2e; "You must not conduct yourself in a manner, which could reasonably be regarded as bringing your office or authority into disrepute."

The reasons for this decision were:

1. It was felt that the use of the word 'threatened' was unnecessarily emotive and has significant connotations which may indicate improper behaviour by the Mayor and Wisbech Town Council which was unsubstantiated in the response to the complaint.
2. The word 'threatened' also implies that there would be a consequence to these actions which covers a multitude of scenarios, one of which could be violence, which risked damaging the reputation of the Mayor and the Council.

For these reasons, it was felt this behaviour has the potential of bringing the office of the Mayor and Wisbech Town Council in to disrepute. As there may have been a breach to the Code of Conduct, this complaint will now be referred to the Conduct Committee for determination.

Councillor Hoy did not vote.

