

Decision Notice

This Decision records the outcome of the Hearing taken by Tendring District Council's Standards Committee on 27th September 2017 in accordance with the District Council's arrangements for dealing with complaints against Councillors.

The Complaints Procedure was approved by full Council on 26th November 2013.

COMPLAINT:

An allegation that a Member of District Council has failed to comply with the Members' Code of Conduct.

Date of Hearing:	Wednesday 27 th September 2017
Subject Member:	District Councillor Lis Bennison (did not attend)
Complainants:	Mr Anthony Chandler Mr William Hones
Investigating Officer:	Lisa Hastings (Head of Governance & Legal Services) TDC Monitoring Officer
Membership of Standards Committee:	District Councillors R Heaney (Chairman), P Honeywood, F Nicholls, R Bucke, G Steady, A Davis and T. Witmore;
Independent Persons:	Mrs Clarissa Gosling Mr J Wolton (was allocated to the Councillor in this matter, as per the Independent Person Protocol adopted by Council).
Monitoring Officer:	Mrs Lisa Hastings
Summary of Complaint:	The alleged breaches related to: (i) Paragraph 3.1: The Leadership Principle of Public Life; (ii) Paragraphs 3.2: In fulfilling the Duties and Responsibilities, a Councillor must not: (b) disrespect others; and (c) bully or harass any person

	<p>(iii) Paragraph 3.4(a):</p> <p>A Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute; and</p> <p>(iv) Paragraph 3.7(a):</p> <p>A Councillor must comply and observe the law.</p> <p>The incident had occurred at the Clacton Airshow in August 2016, whereby Councillor Bennison whilst acting as a steward on behalf of the District Council assaulted Mr Chandler, a member of the public.</p> <p>Councillor Bennison was subsequently convicted of assault at Southend Magistrates Court on 13th July 2017.</p>
<p>Any declarations of interest:</p>	<p>Councillor Heaney declared an interest in that she was on the Planning Committee with Councillor Bennison.</p> <p>Councillor Whitmore declared an interest in that he was in the same political group as Councillor Bennison and also a friend.</p> <p>Councillor Davies declared an interest in that she was a friend of Councillor Bennison and she attended the Court hearing in respect of Councillor Bennison.</p>
<p>Hearing in public/availability of relevant documents for public inspection:</p>	<p>The Hearing was held in public and agenda papers were made available.</p>
<p>Written Representations received</p>	<p>Councillor Bennison was not present at the hearing but had previously sent a written apology which was included within the Standards Committee Report (pages 46-7).</p> <p>As part of any Code of Conduct investigation, it is necessary that the allegations are put to the member who is the subject of the complaint to respond to. Whilst the apology was received, despite being provided with a further opportunity to respond specifically to the complaints, Councillor Bennison did not provide an express</p>

	<p>admission as to whether the Code of Conduct had been breached. Councillor Bennison:</p> <ul style="list-style-type: none"> • Believed her actions demonstrated that she was tackling poor behaviour; • denied being disrespectful, harassing or bullying; • denied that neither her office or that of the Council has been brought into disrepute; and • in respect of the failure to comply with the law, pleaded not guilty to the alleged offence and requested the Judge's summing up and the Section 44 alluded to in his summing up to be included within the report.
<p>Council's Standards Committee decision on whether or not there has been a failure to comply with the Code of Conduct and reasons for their decision:</p>	<p>The Committee considered:</p> <ul style="list-style-type: none"> • The content of the Investigation Report and presentation of the Investigator; • the views of the Independent Person contained within the committee report; and • the written representation from Councillor Bennison including the notes of the District Judge. <p>The Committee unanimously agreed that Councillor Bennison's criminal conviction for assault was conduct that failed to comply with the law and could reasonably be regarded as bringing her office as a Councillor or the Council into disrepute. Therefore, Councillor Bennison was found to be in breach of paragraphs 3.4(a) and 3.7(a) of the Code of Conduct. Consequently, the Leadership principle was also compromised.</p> <p><u>Reasons:</u></p> <p>The Committee's reasons for the decision were expressed as their agreement with the findings of the investigation and recommendation from the Monitoring Officer, which were referred to on pages 45 of the Committee report, in that:</p> <p>A Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute (Paragraph 3.4(a)):</p> <p>The Monitoring Officer concluded that a criminal conviction for assault is prima facie evidence that</p>

	<p>the Councillor’s actions brought the Council into disrepute and consequently, there was evidence that paragraph 3.4(a) has been compromised and breached.</p> <p>A Councillor must comply and observe the law (Paragraph 3.7(a))</p> <p>The Monitoring Officer concluded that a criminal conviction is without doubt evidence that Councillor Bennison’s actions failed to comply with the law and consequently, there was evidence that paragraph 3.7(a) has been compromised and breached.</p> <p><u>Principles of Public Life:</u></p> <p>In addition to Paragraphs 3.4(a) and 3.7(a) of the Code of Conduct it was necessary to revisit that elected members are required to conduct themselves in a way which is consistent with the Principles of Public Life and that <i>“holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs”</i>. Therefore, in obtaining a criminal conviction for assault, Councillor Bennison had contravened the Principle of Leadership. Councillor Bennison has provided comments surrounding the incident and in effect, believes she was tackling poor behaviour. However, slapping an individual and using violence is not a reasonable reaction of an elected member and does not promote or maintain high standards of conduct or demonstrate Leadership.</p> <p>The Standards Committee expressed their disappointment that Councillor Bennison had failed to acknowledge the Code of Conduct was breached when she was convicted of a criminal offence within a court of law.</p>
<p>Any mitigating circumstances taken into account:</p>	<p>Councillor Bennison was not at the meeting however, the Committee did take into account the written apology contained within the body of the Committee and Investigation Report.</p>

Sanctions imposed:

The Committee considered the range of sanctions available under Section 8 of the District Council's Complaints Procedure and that any sanctions must be relevant and proportionate and necessary to promote and maintain high standards of conduct:

- (1) That the Committee's findings in respect of District Councillor Bennison's conduct be published on Tendring District Council's website;*
- (2) That the Committee's findings and outcome of the hearing be reported to the November meeting of full Council for its information;*
- (3) the Group Leader acknowledge that Councillor Bennison has breached the Code of Conduct and in response it is suggested that Councillor Bennison is removed from any Committees and Sub-Committees of the Council for one month; and*
- (4) it is disappointed that Councillor Bennison failed to acknowledge that the Code of Conduct was breached and requests that training with the Monitoring Officer is organised for Councillor Bennison on the Code of Conduct.*

Approved by: Councillor Rosemary Heaney

Chairman of the Standards Committee

Date: 4th October 2017

Background Paper – Published Report to Standards Committee and the minutes of the meeting held on 27.09.17