

**INVESTIGATION REPORT
ON BEHALF OF THE MONITORING OFFICER
OF SEDGEMOOR DISTRICT COUCIL**

COMPLAINANT: ELAINE DUTTON
MEMBER: Councillor MICHAEL MURPHY
Case Reference: GS/03/22

Report of an investigation by Gill Sinclair of Bethan Evans Governance, Training and Consultancy Ltd, appointed by the Monitoring Officer for Sedgemoor District Council into an allegation concerning Councillor Michael Murphy in his capacity as a councillor of Burnham-on-Sea and Highbridge Town Council.

Investigator's background

The investigation has been undertaken by Gill Sinclair. I am an associate working with Bethan Evans Governance Training and Consultancy. I have over 20 years of experience of working for local authorities providing advice to Councils on decision-making, probity, standards, and the Member Code of Conduct. I have undertaken all aspects of work relating allegations of breaches of the Code of Conduct, including assessments and investigations of complaints, reporting to, and advising the Standards Committee and providing training to Councillors on the Code Conduct. I regularly provided advice to Councillors on conduct, interests and conflicts of interests and probity.

DATE: 2nd February 2023

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1 Executive summary

1.1 I have been appointed to investigate a complaint made by Elaine Dutton (ED) in respect of the alleged behaviour of Councillor Michael Murphy (Councillor MM).

Investigator's background

- 1.2 The investigation has been undertaken by Gill Sinclair. I am an associate working with Bethan Evans Governance Training and Consultancy. I have over 20 years of experience of working for local authorities providing advice to Councils on decision-making, probity, standards, and the Member Code of Conduct. I have undertaken all aspects of work relating allegations of breaches of the Code of Conduct, including assessments and investigations of complaints, reporting to, and advising the Standards Committee and providing training to Councillors on the Code Conduct. I regularly provided advice to Councillors on conduct, interests and conflicts of interests and probity.
- 1.3 ED was, at the time of the complaint, the Acting Responsible Finance Officer (RFO) of Burnham-on-Sea and Highbridge Town Council (the Town Council).
- 1.4 Councillor MM is, and was, at the time of the complaint a Councillor on the Town Council.
- 1.5 On 28th July 2022, ED submitted a complaint form to the Monitoring Officer of Sedgemoor District Council, the council responsible for dealing with complaints in respect of members of the Town Council.
- 1.6 The complaint made relates to the alleged conduct of Councillor MM on the 23rd of June 2022 and his alleged behaviour towards ED on several other occasions when visiting the offices of the Town Council.
- 1.7 In the complaint ED alleges that on the 23rd of June, Councillor MM made inappropriate comments to her when discussing whether a grant application made on behalf of Cultural Arts Development Society (CADS) could be approved. ED alleges that Councillor MM:
- i) questioned whether money for the grant could be taken from elsewhere in the Town Council
 - ii) Suggested that ED spoke to the Town Clerk to try to persuade him to change his mind by wearing a low cut top and to push her breasts out so that they sit like a balcony,
 - iii) During a further conversation on the 23rd of June, Councillor MM made an inappropriate comment to ED by saying that she made him feel calm and he wanted to give her a cuddle,
 - iv) on a previous occasion when Councillor MM attended the Town Council offices, he made an inappropriate comment by saying

to ED she was his crush for the day, and he was falling in love with her.

- v) That Councillor MM ignored the request for Cllrs to make an appointment with officers before attending the Town Council Offices and when he did attend, he stood in such close proximity to ED as to touch her arm.

1.8 My findings are that in relation to the complaints made by ED as regards the conversations and comments made to her by Councillor MM on the 23rd June and in respect of comments made by Councillor MM on other occasions, specifically at a Town Council training event, I have found that on the balance of probabilities, Councillor MM **DID BREACH** the Member Obligations of the Town Council Code of Conduct as follows:

- 1) They shall behave in such a way that a reasonable person would regard as respectful.
- 2) They shall not act in a way which a reasonable person would regard as bullying or intimidatory.

1.9 In respect of the allegation that Councillor MM breached the obligation:

- 3) They shall not seek to improperly confer an advantage or disadvantage on any person.

1.10 I have found that on balance of probabilities, the conversation did take place, but that the element of the conversation relating to the availability of other funding for CADS **DID NOT BREACH** the Code of Conduct.

2 Councillor Michael Murphy's official details

2.1 Councillor MM was first as a Town Councillor between 1995-1999. He was then elected as Town Councillor in 2019 and re-elected in May 2022. He serves on the following committees

- Chair of the Town Improvement Committee
- Deputy Chair of the Princess Management Committee
- HR Committee

2.2 Councillor MM is also a member of the following other relevant authorities:

- Sedgemoor District Council
- Somerset County Council

2.3 In respect of the Town Council, Councillor MM currently serves on the following committee: The Town Improvement Committee.

2.4 He serves on the following committees on Sedgemoor District Council:

- Development Control Committee
- Licensing & General Purposes Committee
Licensing Panel
- Tree Preservation Order Sub Committee

2.5 He serves on the following committees on Somerset County Council:

- Constitution and Governance Committee
- County Council
- Regulation Committee

2.6 He is not an Executive Councillor on either Sedgemoor District Council or Somerset Council.

2.7 Councillor MM's Register of Interest in respect of Sedgemoor DC confirms that he holds positions on a number of outside bodies including, as the Chair of the Cultural Arts Development Society (CADS).

2.8 A Register of Cllr MM's interests relating to the Town Council can be found via the Sedgemoor DC website. The Register is undated.

2.9 Cllr MM confirmed that he had undertaken Equalities Training.

3 The relevant legislation and protocols

3.1 In accordance with S 27 of the Localism Act 2011, the Town Council adopted a Code of Conduct in May 2015. The Code was last reviewed by the Town Council in May 2021. The Code includes the following paragraphs:

- **Introduction**

Pursuant to section 27 of the Localism Act 2011, Burnham-on-Sea and Highbridge Town Council has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed, or when they claim to act, or give the impression of acting as a representative of the Council.

- **Member Obligations**

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, they have the following obligations

- 1 they shall behave in such a way that a reasonable person would regard as respectful.

- 2 they shall not act in a way which a reasonable person would regard as bullying or intimidatory.
- 3 they shall not seek to improperly confer an advantage or disadvantage on any person.

4 The evidence gathered

4.1 I have taken account of oral evidence from the complainant ED and Councillor MM.

4.2 I have also taken account of documentary evidence as follows

- i) Complaint form dated 18th August 2022 and accompanying documentation:
 - Statement signed and dated 11 August made by Mr Ron Spur – Locum Town Clerk.
 - Note signed and dated 27th June relating to incident on 23rd June 2022 made by ED and Helen Hurley
 - Copy of a letter dated 27th June 2022 sent by the Locum Town Clerk to Councillor MM dated 27th June 2022
- ii) Response of Councillor MM dated 23 August 2022
- iii) Decision Notice issued by the Monitoring Officer dated 30th August 2022.
- iv) Code of Conduct of the Town Council
- v) Sedgemoor District Council's adopted Investigation Procedure.

5 Preliminary Issue - Jurisdiction

5.1 The preliminary matter that needs to be addressed is whether, and to what extent the Code of Conduct is engaged in respect of this complaint.

5.2 Councillor MM indicates in his response to the Monitoring Officer dated 23rd August, that in relation to certain aspects of the complaint, he was not acting in his capacity as a Town Councillor and as such the Code is not engaged. In particular, he argues that in relation to his attendance at the Town Council offices on the 23rd of June the Code was not engaged in relation to the following allegations:

- That he asked ED to wear a low cut top and to push her breasts out, so that they sit like a balcony to persuade the Town Clerk to change his mind.
- That he told a story about a woman in Santa Fe who was wearing a bra type top and that her breasts were at his eye level.

5.3 Councillor MM argues that on the 23rd of June he attended the offices of the Town Council in his capacity as the chair of CADS. He said that when he

attended the office on that day he did so because he was concerned about a grant application that had been made by CADS via its Secretary Eileen Shaw (previously the Clerk to the Town Council), which had not been approved. This grant was in respect of an event that was due to take place on the 3rd of July.

- 5.4 His attendance was necessitated because CADS had committed to expenditure for this event. It was the second event CADS had organised that summer, the previous event being the Party in the Park over the Jubilee Weekend, he needed to know whether funding would be available.
- 5.5 In his statement Councillor MM describes the staffing situation in the Town Council offices. He states that in around April 2022 three senior officers resigned from the Town Council. This included, the Town Clerk, Deputy Town Clerk, and the Responsible Finance Officer. This left the Town Council offices significantly understaffed and under pressure. It also meant that meetings of the Finance Committee had been cancelled. This committee would ordinarily have considered grant applications. It hadn't met in May, and this had resulted in CADS not receiving any grant funding for the Jubilee weekend event, and it appeared that the next meeting of the committee considering grant applications would be after the July event. As such it appeared CADS would not obtain any funding for this event either.
- 5.6 He describes in his statement how he had attended the Town Council offices on various occasions during May at which he had had discussions with the Locum Town Clerk about the possibility of convening meetings of the various committees so that the grant application could be considered
- 5.7 Despite all councillors having been requested to telephone or e-mail the offices to make appointments to come in and see the remaining staff, on the morning of the 23rd of June, Councillor MM, telephoned the offices and having not received a response, he decided to attend the offices in person.
- 5.8 In his statement, Councillor MM acknowledges that on his arrival at the Town Council office, he did not introduce himself or inform the staff that he was there in his capacity as Chair of CADS. His view is that the staff knew who he was and what he did.
- 5.9 As set out in section 3 above, the Code applies when a Councillor "*claims to act or gives the impression acting as a representative of the council*"
- 5.10 The question that needs to be answered is whether Councillor MM gave the impression he was acting as a representative of the Council when discussing the availability of a grant for an organisation he was closely involved with, but in respect of which he was not the applicant.

- 5.11 In her statement ED describes her employment with the Town Council. She was originally employed as a Customer Services Officer from September 2021. Following the departure of the three members of staff mentioned above ED was asked to take on the role of acting Responsible Finance Officer in April 2022. At the time of the conversation in June 2022 she had had little contact with Councillors, having attended only one Council meeting. It was her view given the nature of the conversation, that Cllr MM was talking to her in his capacity as a Town Councillor. He was not the applicant for the grant, that had been made by the secretary of CADS.
- 5.12 ED stated that all councillors had been requested to make appointments with officers, this was due to the staff shortages. Councillor MM however tended to ignore this request and had continued to attend the offices without an appointment to discuss Town Council business.
- 5.13 It was this during this conversation that ED alleges that he sought to persuade her to dress in such a way as to persuade the Town Council Clerk to change his mind about the availability of a grant. This conversation was related to the fact that meetings of the Committee which would ordinarily consider grants had been cancelled and the next available committee was scheduled to take place after the date of the event. In addition, on previous occasions Cllr MM had had several conversations with the Locum Town Clerk and other officers about the need for meetings to be called for an earlier grant application. These conversations directly related the Cllr MM's role as a councillor as opposed to a member of an organisation that had applied for a grant.
- 5.14 Whilst she knew who Councillor MM was, and that he was involved with CADS, he made no effort to clarify to her the capacity in which he was speaking to her.
- 5.15 I have, on balance, concluded that it is reasonable to conclude that Councillor MM gave the impression that he was attending the offices in his capacity as a councillor in respect of all aspects of the complaint. Therefore, the Code is engaged.

5 Material Facts Relating to the Complaint

- 5.1 The detailed statements of ED and Councillor MM are attached [Appendix A].
- 6.2 On the face of the statements there is a degree of agreement between the parties as to the nature of the events, there is however disagreement about who was present and the order of the events.
- 6.3 The following facts are undisputed:
- i) Councillor MM attended the Town Council offices on the 23rd of June 2022, and he had two conversations with ED

- ii) he discussed with ED the possibility of the grant in relation to the July event being awarded
- iii) they discussed the need for Councillor MM to make contact and discuss the grant directly with the Locum Town Clerk.
- iv) that ED was able to resolve an issue that Councillor MM had in relation to access to the IBABS system
- v) that because of the help ED provided, Councillor MM made a comment to ED That either he made her feel calm, or that he said *“you are fantastic I'd like to give you a big cuddle but sorry I can't. Let me just say you are my crush for today and I think I could fall in love with you”*
- vi) that he had had previous conversations with ED

6.4 The following facts are disputed:

- i) That Councillor MM asked if money could be taken from other Town Council funds.
- ii) That he suggested ED sought to change the Locum Town Clerks' mind by wearing a low cut top with a balcony bra, or that she pushes her breasts out.
- iii) That on the 23rd June he had a conversation with ED about a lady in Santa Fe. Councillor MM does not dispute that he had a similar conversation about a lady in St Tropez, but he does dispute having this conversation on the 23rd of June.

6.5 Councillor MM has been extremely open and clear about the conversations he had had with ED on 23rd June and over the previous couple of months. There may be disagreement about when, and in front of whom, the conversations took may place, but by Councillor MM's own admission, several of the conversations that are complained about did take place.

6.6 In relation to his attendance at the offices on 23rd of June 2022, he confirmed that he did attend the offices without an appointment. His recollection is that he was met by HH, a Customer Services Officer. The first conversation that he recalls was a conversation with HH, in which he remarked that he really liked the colour of her hair. He confirms this conversation then expanded to include ED and the colour of her hair. He described this conversation as “banter”.

6.7 After he had finished discussing the hire of chairs for the July event with HH, Councillor MM recalls that he then had a conversation with ED. He confirmed that at that point in time ED was sat at her desk and he was stood in front of her. In his statement he said:

“I am about 6ft tall and she quite small and was sitting at her desk, I was conscious that she was pushing out her breasts, forming a circle with her face. I felt I needed to say something, I said to her, “I am really sorry to mention this to you, but I am a bit uncomfortable, I don’t want you to think I am staring at your breasts, I am actually looking at your face, I am really sorry to say this to you, it’s just what you are wearing, it’s pushing up your breasts”. My mission was for her not to feel badly of me.”

I moved away from her desk, ED said she wasn’t bothered.

- 6.8 Councillor MM also confirmed that following that conversation he had a second conversation with ED. This related to difficulties he was experiencing accessing the Town Council IT system IBABS. He explained that ED offered to help him. He got his tablet from his car and gave it to ED. She very quickly was able to access the system and Councillor MM was delighted. He asked her if she could show him how she had gained access to the system. At that point ED suggested that he stood by her desk so that he could see what she was doing. Councillor MM said in his statement:

“I couldn’t believe what she had done, so I asked her to do it again, she repeated the process and opened the system up again. I was beside myself. I then stood back from the desk and said Look, thank you very much, I then uttered this nonsense,” I’d love to give you a cuddle, but I can’t, it’s not allowed, but what I can say is that you can be my crush for the week, I think I’m falling love with you – fantastic”

I should say that when I gave ED the tablet, she invited me to stand behind her. I said, “I’m really nervous about that, I don’t want to look down on you and be in the same position staring down at you instead of ...ED said Come and Stand here”. I thought Oh right, OK, I walked around, stood on the corner looking at the screen and saw what she did, I then walked away.

- 6.9 When asked whether he thought that type of language in a workplace was appropriate, Councillor MM said as follows:

“I haven’t used the language before or since and in terms of whether I would use it again, it depends, this was a youngish person, much younger than me, I didn’t think badly of it, it was meant to be a compliment to her, it was a throwaway line, she had achieved something that no one else had achieved,

I obviously couldn't imagine that she would take it literally, maybe it seemed strange coming from an older man. I am used to those cool conversations with my grandchildren."

- 6.10 ED's complaint makes general allegations relating to the conduct of Councillor MM towards her on a number of occasions, but she does not specify any particular dates or events, nor does she give any detail of the specific behaviour about which she complains.
- 6.11 Councillor MM, was, as noted above, very open and provided details of other conversations he had had with ED. In his statement he confirms that he had previously spoken to ED at a training event he had attended in the Town Council. During that event, he confirmed that he spoke to ED about the way in which she dressed. Councillor MM confirmed but it was during this conversation, not the conversation of the 23rd of June that he referred to a lady he had seen in St Tropez. Councillor MM said:

'The conversation with ED about St Tropez took place during an IBABS training event. I spoke to her about the way she dressed. I had been called to attend an IBABS training session, ED came in and sat down she was wearing a black dress, she wore it every day. I think she wore same dress when working in her other part time job in a hair salon where she can wear what she wants.

The dress had a scooped neckline, and her breast were almost out on the table, very exposed. I spoke to her and said that I thought her dress was not appropriate for her work at the Town Council. I thought she might be in breach of the Town Council dress code, clause 2.1 says I agree to wear something appropriate to work in a public office. No one had said anything to her, but I felt it had to be said. I felt embarrassed, I spoke to her very kindly and quietly.

I may have overstepped the mark, but something had to be said, it was staring at us all. Subsequently I have felt that I could have spoken to Sharon, but when I spoke to ED, she didn't seem bothered. I thought she was used to it, that it was part of her daily thing. But as she was new to the Town Council, I thought something had to be said, I used the conversation about St Tropez to illustrate the point about appropriate dress.

I said to her that I had just come back from St Tropez, in St Tropez, dress may not matter, I told her about an experience I had had whilst standing at a market stall, I explained that a tall willowy 6ft model type woman stood next to me, she was wearing yellow bikini bottom and a white cotton blouse that was open, she had a white bra with a fringe, it was like a shelf, perfectly like a shelf on to which her bosom was placed – completely out. I was shocked, but in a town like St Tropez, you can wear what you want, in a Town Council you need to be more discreet."

- 6.12 As noted in paragraph 6.4 (i) and (ii) above, Councillor MM disputes that he either asked that funds be taken from elsewhere in the Town Council, or that he asked ED to wear a low cut top and push her breasts up, “so they sit like a balcony” to persuade the Locum Town Clerk to award the grant to CADs. In respect of the allegation that he sought to use his position to gain an advantage for CADs, what is clear is that no grant was made in respect of the event that CADs organised in July.
- 6.13 In respect of the allegation that the ED dressed in such a way as to persuade the Town Clerk to award funding, Councillor MM in his statement said:

“I absolutely did not ask her this. It’s ridiculous, it’s implausible for me to say that she should dress like a tart, it’s reprehensible. I simply asked if she could ask the Town Clerk about it, she said she couldn’t, it was entirely up to me to do.”

7 Councillor Murphy’s additional submissions

- 7.1 Councillor MM was categorical in his statement that in respect of each conversation he had with ED, about her appearance, he made the comments to ensure that she didn’t think badly of him. He did not intend to coerce any one to do anything. And his view is that on each occasion he spoke to her, he did so in a quiet and kind manner.
- 7.2 He raised concern that ED has jumbled events up.

8 Reasoning as to whether there have been failures to comply with the Code of Conduct

- 8.1 The Town Council Code includes the obligations to:
- i) treat everyone with respect and
 - ii) not to bully or intimidate
 - iii) not to use the position as councillor to confer an advantage or disadvantage on anyone.

Treat Everyone with Respect

- 8.2 The most appropriate definitions of what types of behaviour constitutes treating someone the respect and harassment can be found in the LGA document – Guidance on LGA Model Code Councillor Code of Conduct. Whilst the Town Council has not adopted this Model Code, its Code includes almost identical provisions in relation to treating others with respect and not harassing others.

8.3 The LGA Guidance describes respect as follows:

“Examples of ways in which you can show respect are by being polite and courteous..... in a local government context this can mean using appropriate language in meetings and written communication...”

8.4 Disrespect is described as:

“Failure to treat others with respect will occur when unreasonable or demeaning behaviour is directed by one person against or about another. The circumstances in which the behaviour occurs are relevant in assessing whether the behaviour is disrespectful. The circumstances include the place where the behaviour occurs, who observes the behaviour, the character and the relationship of the people involved and the behaviour of anyone who prompts the alleged disrespect... It is subjective and difficult to define. However, it is important to remember that any behaviour that a reasonable person would think would influence the willingness of fellow councillors, officers, or members of the public to speak up or interact with you because they expect the encounter will be unpleasant or highly uncomfortable fits the definition of disrespectful behaviour”

8.5 Applying these definitions to the conduct of Councillor MM who admits he had several conversations with ED, details of which are quoted in the report at Section 6 above, I conclude that these conversations were inappropriate by virtue of the highly personal nature of the comments. They related to her personal appearance, the way she dressed, and the use of her appearance to seek to persuade a third party to act in a particular way. In addition, the reference to the incident in St Tropez, which was by Councillor MM’s admission an attempt by him to demonstrate the inappropriateness of her dress in the workplace. His conversations were inappropriate, they contained inappropriate remarks about an individual’s appearance, and lewd comments.

8.6 The concept of respect is subjective. Any behaviour that a reasonable person would think would influence the willingness of the recipient (in this case ED), to speak up or interact with the person making the comments (in this case Councillor MM), because they expect the encounter will be unpleasant or highly uncomfortable, fits the definition of disrespectful behaviour.

8.7 Applying the test set out in para 8.6 above to the circumstances of the complaint, I conclude that an individual who is spoken to in such a way in their workplace, about their personal appearance, the way in which they dress, and who is forced to listen to lewd comments, including the description of the way in which the lady in St Tropez was dressed would feel demeaned by it, and it is reasonable to conclude that they would find the encounter to be unpleasant or highly uncomfortable.

Not to Bully or Intimidate

8.8 The LGA Guidance describes bullying as follows:

“Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour, and abuse or misuse of power that can make a person feel vulnerable, upset, undermined, humiliated denigrated or threatened”

8.9 Applying this definition to the comments and conversations of Councillor MM as set out above in Section 6 above, in particular his comments that he would like to give her a cuddle, that she could be his crush for the day and that he thought he was falling in love, these comments could amount to bullying behaviour when taken in the context of other comments and conversations he had had with ED. I conclude that a reasonable person would find them insulting and humiliating, and could make a person feel vulnerable, upset, undermined, and denigrated. I also consider it to be disrespectful as a reasonable person would feel such an encounter will be unpleasant or highly uncomfortable.

8.10 The Guidance on LGA Model Code Councillor Code of Conduct does not refer specifically to intimidation. The Oxford English Dictionary meaning of intimidation is:

“To frighten or overawe someone, especially in order to make them do what one wants”

8.11 In relation to the allegation that ED dresses in such a way as to persuade the Town Clerk to award funding, I have carefully considered Councillor MM’s categorical denial that he made this statement. However, in the light of the conversations that he has acknowledged to have had with ED, I have concluded that on the balance of probabilities, it is more likely than not that Councillor MM did make this comment to ED.

8.12 The content of the conversations Councillor MM has had with ED were entirely inappropriate and offensive for any councillor to have with a member of staff in a workplace. I do consider this conversation to be disrespectful. I do not however consider that it amounts to intimidatory behaviour.

Not to use the position as councillor to confer an advantage or disadvantage on anyone.

8.13 In relation to the allegation that Councillor MM sought to use his position to confer an advantage on CADS by securing funds from the Town Council other than through the grant, there is disagreement as to whether this request was made. What is clear is that CADS did not receive any grant funding from the Town Council for either the Jubilee weekend or the event in early July.

- 8.14 It is not unreasonable for a councillor to seek to establish whether there were alternative funding routes available to support the event. There may have been other forms of funding that could have been available. Councillor MM is a very experienced Councillor, and in his capacity as a councillor it was not unreasonable to ask the question. What was unacceptable was the suggestion as to how ED should seek to persuade the Town Clerk in respect of this matter.
- 8.15 Councillor MM refers on several occasions throughout his statement to ED saying she was “not bothered” by his comments. This does not justify or make the comments made by Councillor MM any more acceptable. ED used this language to bring conversations to an end as swiftly as possible. Such comments should not be taken as an indication that she considered the conversation or comment to be acceptable.
- 8.16 Councillor MM describes comments he made about wanting to give ED a cuddle, that she could be his crush for the day and falling in love with her as modern language he uses with his grandchildren. He fails to see acknowledge the very different roles and settings in which he has used this language, i.e., a workplace.
- 8.17 The language used demonstrates a lack of respect for ED. Councillor MM gives no consideration to the impact his language could have on others. His justification, or mission was to ensure that ED did not think badly of him. The fact that he may have spoken to her quietly and in a kind manner does not excuse his behaviour.

9 Findings

- 9.1 In conclusion I have found that on the balance of probabilities, Councillor MM has **BREACHED** the following Member Obligations of the Town Council Code of Conduct:

They shall behave in such a way that a reasonable person would regard as respectful,

They shall not act in a way which a reasonable person would regard as bullying or intimidatory.

- 9.2 In relation to the allegation that Councillor MM sought to use his position to seek to improperly confer an advantage, I have found **NO BREACH** of the Member Obligations of the Town Council Code of Conduct:

they shall not seek to improperly confer an advantage or disadvantage on any person.

Comment:

The Town Council Code of Conduct does not include any obligation relating to equalities or discrimination. Most modern Codes include these provisions. The Guidance on LGA Model Code Councillor Code of Conduct provides various examples of behaviour that could if proven amount to a discriminatory behaviour. This includes:

“Where a councillor engages in unwanted conduct on grounds of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation, which violates another person’s dignity, or creates a hostile, degrading, humiliating or offensive environment”

Had the Town Council Code included an obligation to promote equalities and to not discriminate, it is my opinion that I would have concluded that the behaviour complained about would have amounted to a breach of such an obligation.

Schedule of evidence taken into account

Core documents

Doc No	Description	
1	Complaint form	
2	Response of Councillor MM dated 23 August 2022	
3	Decision Notice issued by the Monitoring Officer dated 30 th August 2022.	
4	Relevant Extract from the Code of Conduct of the Town Council	

Notes of telephone conversations, letters, and interviews with witnesses

Doc No	Description	Pages
5	Statement of ED based on interview of 8 th November 2022 conducted via Teams	
6	Statement of Cllr MM based on interview in person on 16 th November 2022	