

Case reference: cm/gh

Report of an investigation under Section 28 (2) of the Localism Act 2011 by Carolyn Wheater, the Monitoring Officer for the City of Lincoln Council, into allegations against Councillor Gary Hewson of the same Council.

September 2021

Contents	Page
Executive Summary	3
Councillor Hewson's official details	4
Relevant legislation and protocols	5
The evidence and facts	6
Findings and mitigation	10

Appendices

1. Complaint from Chris Morton dated the 11th August 2021
2. Letter dated 17th June 2021 inviting Councillor Hewson to the tour of inspection
3. Email with apology from Councillor Hewson dated the 13th August 2021
4. Response to the apology from Chris Morton dated the 13th August 2021
5. Member Code of Conduct

1. **Executive Summary**

- 1.1 Councillor Gary Hewson is a member of the City of Lincoln Council.
- 1.2 Chris Morton works as the Resident Involvement Manager in the Council's Housing Directorate.
- 1.3 On the 10th August 2021 Councillor Hewson had a telephone conversation with Chris Morton concerning the fact that housing officers were not going to attend St Andrew's Gardens on a tour of inspection. Chris Morton states that during that conversation Councillor Hewson was aggressive in his tone, he made reference to disciplinary action, indicated that officers shouldn't be in their job, and that he would go to the press.
- 1.4 Chris Morton was on the tour of inspection for the Moorland and Boultham Park area when he spoke to Councillor Hewson. It was a reasonable expectation on behalf of Councillor Hewson that the tour of inspection would include St Andrew's Gardens.
- 1.5 Chris Morton made a formal complaint against Councillor Hewson (attached as Appendix 1) stating that Councillor Hewson's comments were borderline aggressive, and that he had never been spoken to like that by a councillor before. Chris Morton stated that he was upset and shocked by the behaviour.
- 1.6 Chris Morton believes that the comments made by Councillor Hewson breach the Member Code of Conduct.
- 1.7 Under the requirements of the Localism Act 2011 and the adopted Local Assessment Criteria, for member complaints, I met with Roger Vine the Council's Independent Person. It was agreed that the complaint from Chris Morton did indicate a potential breach of the member code of conduct and that local resolution was not suitable. It was agreed that I would carry out the investigation.
- 1.8 It was considered that despite Councillor Hewson adding an apology to the end of an email to Chris Morton dated the 13th August 2021 (Appendix 3), this was not sufficient to seek local resolution. Chris Morton considered the apology 'was not really an apology'.
- 1.9 As a result of this investigation, I have concluded, in conjunction with the Independent Member, that Councillor Hewson did breach the Member Code of Conduct in that he failed to treat Chris Morton with respect and displayed bullying behaviour towards him.

2. Councillor Gary Hewson's official details:

2.1 Councillor Hewson has been on the Council since 1994.

2.2 Councillor Hewson chairs the following committees

- Housing Scrutiny Sub Committee
- Performance Scrutiny Committee

And also sits on the following committees:

- Audit Committee
- City of Lincoln Council and Employee Joint Consultative Committee
- Community Leadership Scrutiny Committee
- Council
- Ethics and Engagement Committee
- Housing Appeals Panel
- Planning Committee
- Select Scrutiny Committee

2.3 Councillor Hewson gave a written undertaking to observe the Code of Conduct in May 2018.

2.4 Councillor Hewson has attended various training sessions at the Council over his years as a councillor and in particular undertook training on the Code of Conduct in August 2018.

3. Relevant legislation and protocols

3.1 The Council adopted a code of conduct under the Localism Act 2011 in 2012, which was revised in 2019, and the revised version was the code of conduct in place at the time of the complaint (attached as Appendix 5.)

3.2 Paragraph 3.1 of the code states;

“when acting in your role as a member of the authority: do treat others with respect and not bully any person”

Paragraph 4.0 of the code details what constitutes bullying behaviour as follows:

4.1 “you must not bully, harass or intimidate any person. This is completely unacceptable and will be considered to be a breach of the code.

4.2 harassment, bullying, discrimination, intimidation and victimisation (either directly or indirectly) are unacceptable and should not be tolerated. It is important to recognise the impact such behaviour can have on any individual experiencing it, as well as the wider organisation in terms of morale and effectiveness.

4.3 Bullying is inappropriate and unwelcome behaviour which is offensive and intimidating and which makes an individual or group feel undermined, humiliated or insulted, it is the impact of the behaviour rather than the intent which is the key.

4.4 Bullying usually arises as a result of an individual misusing their power and can occur through all means of communication. Bullying can be a pattern of behaviour or can be a one-off serious incident that becomes objectionable or intimidating.

4.5 examples of bullying behaviour are set out below

- Unwelcomeverbal contact*
- Intimidating behaviour including verbal abuse or the making of threats*
- Making someone’s work life difficult*

4. Evidence and facts

- 4.1 On receipt of the written complaint from Chris Morton I met with the Independent Person and it was agreed that as Monitoring Officer, I would investigate the complaint.
- 4.2 During the investigation we interviewed Councillor Hewson, and Chris Morton.

5. Background

5.1 Chris Morton (CM)

- 5.2 At the commencement of the interview with CM, he gave some context to the tour of inspection which took place on the 10th August 2021. CM did not arrange the inspection himself, however he does agree that there was a reasonable expectation on behalf of Councillor Hewson, that the tour of inspection would incorporate St Andrew's Gardens. Councillor Hewson as Ward Councillor would have been given a letter showing the areas to be included in the tour of inspection (see appendix 2).
- 5.3 With reference to the telephone call that CM had with Councillor Hewson, CM said from the outset on the call Councillor Hewson wasn't happy, that during the call Councillor Hewson started to bring into the conversation all his grievances such as officers working from home, that 'whatever gripe' Councillor Hewson had against housing officers, it all spilt out. CM said Councillor Hewson was aggressive in his tone.
- 5.4 As can be seen from the written complaint (Appendix 1) CM has set out his recollection of the conversation with Councillor Hewson. In the complaint CM has stated that Councillor Hewson told him that:
- 'housing officers had better get down to St Andrew's Gardens; that this was a reasonable request, that when he was at work if a reasonable request wasn't followed then you would face disciplinary action; that officers should not be in their job if they didn't want to do them; that he wanted to know what officers were doing for the rest of the day, that he bets they would just go straight home and sit at home all day; he wanted to know what officers were doing for the rest of the day, that they had better have their noses glued to the computer screens. He was going to speak to the Chief Executive, the Director of Housing and the Press. He then stated to CM that if he didn't want to come and involve the residents, then he should leave his job.'*
- 5.5 On asking Chris Morton whether he tried to interject during the call, he replied that he just let Councillor Hewson get on with it as there was no reasoning with him.

- 5.6 On asking CM how he felt about Councillor Hewson's behaviour and comments on the call, he said that he was quite upset and shocked, that he had never been spoken to like that by a councillor before, he went on to say that he thought he had a good enough relationship with Councillor Hewson.
- 5.7 CM went onto say that a Councillor can't go round telling people to leave their jobs, and that members shouldn't say they are going to the press, he queried whether members would be allowed to go to the press.
- 5.8 CM did state that the problem could in fact have all been worked out. On whether they would then attend St Andrew's Gardens he told Councillor Hewson that he needed to speak to the relevant housing officers. However, CM said Councillor Hewson put the phone down on him then rang back after 10 minutes leaving a curt message, giving CM no chance to speak to a housing officer. CM also said he needed some time to calm down after the call.

CM states that when he did ring Councillor Hewson back, Councillor Hewson said that he had five minutes to sort the issue out 'otherwise he was going to the local press', then put the phone down again.

- 5.9 On asking CM to elaborate on his wording in his complaint that Councillor Hewson was 'borderline abusive', CM replied that he was abusive and that it didn't make him feel good and that it belittled him. He went on to say that he had never been spoken to like this before by a councillor.
- 5.10 With regards the reference in the complaint to other officers, CM said that it wasn't just him he was saying things about, he was saying that housing officers don't do their jobs, though he didn't specifically name anyone.
- 5.11 As can be seen in Appendix 3, Councillor Hewson sent an email to CM on the 12th August 2021, at the end of the email there is an apology from Councillor Hewson to CM. On asking CM about how he felt about the apology, CM stated that he didn't accept the apology. He went on to say that if Councillor Hewson had said after the inspection, that he was sorry for the way he behaved he would have accepted this. CM says at the end of the inspection Councillor Hewson did say in front of CM and other officers that "Chris got it both barrels", CM said he saw this as Councillor Hewson realising about his behaviour. He went on to say that he considers this situation will damage their relationship, that when someone acts in that way it is then really hard to resolve issues, and makes it really hard to do your job. He says that this behaviour shows a lack of professionalism and that he had expected better from councillors.

6. Councillor Hewson

- 6.1 At the beginning of the interview Councillor Hewson was asked about the context of the tour of inspection. Councillor Hewson stated that he had got a letter telling him about the tour of inspection, that this was an inspection bordering on Moorland, so he had assumed that this would incorporate St Andrew's Gardens as this was just across the road and that it made sense to him that they would also go there.

Councillor Hewson went on to say as he represents Boultham, he had dropped a note through the doors to say that there was this upcoming tour of inspection and that they were to let him know if they had any complaints and officers would pop in and see them.

He said that he did get a complaint from a gentleman who was in his 90's who said he had been narrowly missed being hit by a huge pine cone falling off a tree in his garden, that this gentleman had complained to the Council about this, but had got no feedback. Another complaint also was made about trees in their garden.

Councillor Hewson said he was pro-active in doing this and presumed officers would be coming down.

Councillor Hewson said he (along with Councillor Bushell) had gone round to St Andrew's Gardens expecting that the officers would visit there.

- 6.2 On asking Councillor Hewson how he found out that the tour of inspection wasn't going to St Andrew's Gardens, he said that at 10.10am he got a call from Chris to say they were not coming down. Councillor Hewson said he wasn't happy about that as he had been sent a letter which said they would be coming to St Andrew's Gardens. Councillor Hewson again said that he was a pro-active councillor and that he had told the residents. He went on to say that this wasn't necessarily Chris's fault that he understood that Chris didn't circulate the letter.
- 6.3 Councillor Hewson said he told Chris he wasn't happy, that this was part of the officer's role and it was a reasonable request to tell them to go there.
- 6.4 Councillor Hewson said he didn't disagree with Chris's recollection of the conversation (as set down in the complaint) that that 'was the general gist of it'.

- 6.5 Councillor Hewson said by saying they were going to St Andrew's Gardens and then not doing so, put the Council in a bad light, that he did say he would go to the Echo as he knows [name redacted]. Councillor Hewson went on to say that he wasn't asking much, it was only 10 minutes across the road, and with time passing it was reasonable to ask them to come across.

Councillor Hewson said with regards the issues highlighted to the Council with regards the pine-cone and the trees, that we were on notice to act on these.

- 6.6 Councillor Hewson went on to say that he was reasonable in saying all of the things he said (with reference to the details in the complaint), that he considered that something was seriously wrong and he was mad about it. He again questioned 'what these people' are doing all day and that he was just sticking up for the residents.

Councillor Hewson said it was not till the end of the telephone conversation that officers then said they would then go round to St Andrew's Gardens.

- 6.7 On being asked whether he considered what he had said to CM was disrespectful or bullying, Councillor Hewson said he had apologised but that officers have to take the rough with the smooth. He said that you could 'see it that way' that his behaviour was bullying, but that he was here for the residents. He said that the residents wouldn't have got a visit if he hadn't spoken to the officers in that way and that officers are paid to do a job and it wasn't unreasonable to use that language to get them to come across.

He said that he if he didn't speak to officers in that way they would 'cock a snook at him'.

- 6.8 Councillor Hewson said that if he was disciplined for this, then he would live with it, he didn't think that his behaviour was unreasonable. He said he has apologised to Chris, but a mistake had been made and he shouldn't have received the letter.

- 6.9 Councillor Hewson repeated that if he hadn't used that type of language then the officers wouldn't have come across, he said the officers were just not bothered and wanted to get away.

Councillor Hewson said he had to think of the reputation of the Council and the Councillors.

- 6.10 Councillor Hewson said that he would do this again, he was disgusted by the officers, and that he would stand up at Council and say it all again.

- 6.11 Councillor Hewson did say at the end of the interview, that if this was bullying, then he apologies to Chris, but he wants an apology from officers.

7. Member Code of Conduct

- 7.1 As outlined earlier in the report, the code of conduct states that members must treat others with respect and not bully, harass or intimidate any person.

- 7.2 Guidance from the former Standards for England states that; ‘...individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers.’

8. Why I think the code has been breached.

- 8.1 The language and comments that Councillor Hewson uses towards CM during the telephone conversation on the 10th August 2021 does not show respect and constitutes bullying behaviour and is totally unacceptable, and I fully understand the impact that this would have had on CM.

- 8.2 Councillor Hewson’s comments throughout that conversation were bullying and threatening in relation to CM’s job and working life.

9. Potential Mitigation

- 9.1 It is acknowledged that since becoming aware of the code of conduct complaint, that Councillor Hewson sent an apology to Chris Morton.

- 9.2 In addition, I confirm that there was a reasonable expectation on behalf of Councillor Hewson to assume the tour of inspection would have included St Andrew’s Gardens, and that Councillor Hewson had alerted the residents that officers would be visiting. It would seem that there was an error in the letter/communication to Councillors, Councillor Hewson had told the residents that they would be visited, then to find out they wouldn’t be, did put the Councillors in a difficult position.

- 9.3 I also acknowledge that Councillor Hewson is a pro-active Councillor and is passionate about looking after those residents in his ward.

- 9.4 So, whilst I absolutely can understand the frustration that Councillor Hewson felt when officers stated that they would not be going to St Andrew's Gardens when he and the residents had been led to believe they were, I can see no exception or mitigation which would make the language and comments used during that conversation to CM acceptable.
- 9.5 As can be noted from the interview Councillor Hewson does not disagree that he has said those things and goes on to say he was pleased that he did it, and would do it again.
- 9.6 Within an email to CM of the 13th August from Councillor Hewson, with regards specific issues at various properties, Councillor Hewson has added to the end that he apologises that he has upset CM, but that his actions were in the interests of those who elected him. CM does not class this as an apology (see Appendix 4) nor did myself and the Independent Member consider this sufficient to seek a local resolution to this complaint.