



Governance Committee

Item
9

13 October 2015

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Complaint in relation to Councillor Locker		
Wards affected	Not applicable		

This report requests the Committee to consider a complaint received in relation to Councillor Locker

1. Decision(s) Required

1.1 To determine what action should be taken in relation to this complaint.

2. The complaint

2.1 On 12 September 2015 a complaint was received from Councillor Graham regarding a tweet that had been posted earlier that day by Councillor Locker on his Twitter account. The tweet was posted following the receipt by Councillor Locker of a penalty charge notice ("PCN") for parking in a restricted area. The tweet is attached at Appendix 1 to this report.

2.2 The basis of Councillor Graham's complaint was that by the tweet Councillor Locker:-

- (1) had set an example that publicly abusing council staff was ok; and
- (2) that he was effectively encouraging residents to abuse the civil enforcement officers.

Councillor Graham also stated that in his mind that sort of behaviour was totally inappropriate for a councillor.

2.3 On 14 September 2015 the Monitoring Officer wrote to Councillor Locker and attempted to resolve the issue informally by requesting that Councillor Locker issue a public apology and confirm that his tweet was not directed at council officers (i.e. civil enforcement officers). Councillor Locker confirmed that his tweet was aimed at the North Essex Parking Partnership ("NEPP") as an organisation rather than at officers. He agreed that he would tweet an apology and make it clear it was his intention to criticise NEPP as a corporate entity. He also agreed to delete the tweet (which he did). The tweeted apology is attached at Appendix 2 to this report.

2.4 Unfortunately the tweeted apology was not as expected and Councillor Graham remained unhappy with the wording. Accordingly the Monitoring Officer decided to contact both of the Council's Independent Persons who are appointed under the Localism Act to advise on Member Conduct issues. They both agreed that in view of the language used in the original tweet and the fact that Councillor Locker is a member of this Committee that the complaint should be referred to this Committee in accordance with the Council's Localism Act Arrangements. This complaint has attracted coverage in the local press which is attached at Appendix 3 to this report for the Committee's information. This was also reported in the national press.

2.5 The Monitoring Officer invited Councillor Locker to provide a statement on the complaint and this is attached at Appendix 4 to this report.

3. Background

- 3.1 Under the Localism Act the Council has a statutory duty to promote and maintain high standards of conduct by members and co-opted members of the authority. In order to discharge this duty the council has adopted a Code of Conduct for Members which sets out the conduct expected of members and co-opted members of the authority when they are acting in that capacity. The Council has also adopted Arrangements which detail how complaints in relation to Member conduct will be handled.
- 3.2 The Full Council agreed that as part of the terms of reference of this Committee it is responsible for promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council.
- 3.3 The Committee's jurisdiction in this complaint is limited to Councillor Locker's conduct and the language used in his original tweet. The circumstances leading up to it i.e. the issuing of the PCN is not for this Committee. Any resident who receives a PCN has a right of appeal via the NEPP and Councillor Locker has appealed the PCN.
- 3.4 The crux of the complaint is whether it was appropriate behaviour for a councillor and a member of this Committee to use the language contained in the original tweet and regardless of whatever Councillor Locker's intention may have been, it gave the impression that he was publicly criticising the civil enforcement officer that issued the PCN.
- 3.5 All civil enforcement officers who work for the NEPP are employees of Colchester Borough Council. These front line staff have a difficult job to do and are often subjected to violence and aggression whilst performing their duties. To put this in context there were 55 reported instances in 2014, 64 in 2013 and 63 in 2012. So far this year there have been 22 reported instances. The Council as an employer has a duty of care to ensure the health and safety of its employees and takes these types of incidents seriously and will always take appropriate action.
- 3.6 The original tweet also implied that Civil Enforcement Officers were being target driven. By way of background, the NEPP has confirmed that the role of a Civil Enforcement Officer is to enforce parking restrictions that are in place to ensure public safety, enable traffic flow and maintain community standards. Civil Enforcement Officers are instructed to issue a PCN whenever a vehicle is believed to be in contravention of a parking restriction. Civil Enforcement Officers use their discretion when deciding whether or not a PCN should be issued on the evidence at hand and their first action will be to ask a motorist to move a vehicle if they are present. Vehicles need to be observed in contravention for 10 minutes before a PCN is issued. Civil Enforcement Officers are not given any financial or ticket number targets.

4. The Code

- 4.1 The Committee needs to consider whether Councillor Locker's conduct amounted to a breach of the code of conduct. The Committee's attention is drawn to paragraph 3 (1) of the Code which states:

"You must treat others with respect"

The Code is predicated on the Nolan Principles of Public Life which are the basis of the ethical standards expected of public office holders and the Integrity principle which states:

“Public Office Holders should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour”

- 4.2 The Code only applies in relation to a councillor’s conduct in their official capacity as a councillor. Councillor Locker has stated that his tweet was posted in a personal capacity. Indeed his twitter account mentions this. However his twitter profile clearly states that he is a borough councillor. The Council has agreed a Social Media Policy and the Council’s Communications team have provided training for Members on the use of social media. The Policy refers councillors to The Improvement and Development Agency’s guide for councillors in relation to use of social media called “Connected Councillors a guide to using social media to support local leadership”.
- 4.3 This guide highlights that occasionally a councillor can have “blurred identities” where they may have a social media account where they comment both as a councillor and as an individual. It may be clear in the councillor’s mind that they are posting in a private capacity but it can be less clear to others. The question here is did Councillor Locker’s original tweet give the impression, to a reasonable member of the public, that he was posting it in his capacity as a councillor? If that was the case and it was perceived as such then the complaint is within the remit of the Code. If not then the Committee would need to consider whether any action would be appropriate under the Council’s powers of self-regulation which mirror the actions available on a finding of a breach of the Code.
- 4.4 Councillor Locker was elected to the Council in May 2015 and the Monitoring Officer offered all new councillors Code of Conduct training which Councillor Locker did not attend.

5. Options for the Committee

- 5.1 The Committee needs to consider the contents of this report and Councillors Locker’s statement at Appendix 4 and decide whether Councillor Locker’s conduct amounted to a breach of the Code of Conduct for Members and if so, after taking advice from the Independent Persons, whether the complaint:
- (a) merits no further investigation
 - (b) merits further investigation
- 5.2 It is the Monitoring Officers opinion that the facts of this complaint are very clear and established and that a formal investigation would not be cost effective or uncover any further evidence. However this is for the Committee to decide.
- 5.3 If the Committee determines that no further investigation is merited it can also agree that no further action be taken or it can consider using the actions delegated to the Governance Hearings Sub-Committee; i.e.
- (a) Report its findings to Full Council for information;
 - (b) Recommend to Full Council that the councillor be issued with a formal censure or be reprimanded
 - (c) Recommend to the councillor’s Group Leader that the councillor be removed from any or all Committees or Panels of the Council;
 - (d) Instruct the Monitoring Officer to arrange training for the councillor;
 - (e) Recommend to Full Council to remove from all outside appointments to which he/she has been appointed or nominated by the Council (or by the Parish Council);

- (f) Recommend to Full Council to withdraw facilities provided to the councillor by the Council, such as a computer, website and/or email and internet access; or
- (g) Recommend to Full Council to exclude the councillor from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Panel meetings

5.4 If the Committee determines that Councillor Locker's conduct was outside of the remit of the Code of Conduct for Members, it needs to consider whether any further action should be taken under the Council's powers of self-regulation and the options available are the same as those detailed at paragraph 5.3 above.

6. Strategic Plan References

6.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to set out the direction and future potential for our Borough.

7. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health, Publicity and Safety and Risk Management Implications

7.1 None identified.

●●●○○ Vodafone UK 18:01



Tweet



Ben Locker

@benlocker

Thank you North East Essex
Parking Partnership. You
heartless, target driven bastards.
[#Colchester](#)



Reply to Ben Locker



Home



Notifications



Messages



Me



Ben Locker @benlocker · 2h

I apologise if my tweet about this parking ticket was read as a criticism of any individual. It wasn't.



I tried to fire up my Daphne, but the battery was completely dead...

Councillor tweets fury over his parking ticket

By WENDY BRADING
wendy.brading@nqa.com

A PROLIFIC tweeter landed himself in hot water when he criticised his own council after getting a parking ticket.

Ben Locker, a borough councillor, let rip at the North East Essex Parking Partnership after his Seventies Triumph Herald was slapped with a parking ticket.

The outburst was reported to Colchester Council's monitoring officer because of the bad language used in connection with a member of staff. Mr Locker has now apologised.

He had been restoring the car, which he calls Daphne, when it broke down in Prior Way, Colchester.

He said: "I freewheeled it down hill to try to jump start it, but it got nowhere.

"I went to West Bergholt to get

I went to West Bergholt to get my other car, to try to jump start her, but it did not get anywhere

my other car, a Nissan, to try to jump start her, but that did not work either.

"I had to get a new battery, so I put a note under the windscreen and went to get one.

"I knew there was a parking restriction in Prior Way between 2pm and 3pm, but there was nothing else I could do.

"I found the parking ticket on the windscreen when I came back with the battery.

"I thought it was a bit off. The restriction is there to stop commuters parking there all day, not to penalise broken down motors."

Mr Locker, who has tweeted more than 28,000 times, sent a picture of his note with the comment: "Thank you North East Essex Partnership. You heart-



■ Angered - councillor Ben Locker and, inset, the offending tweet

less, target driven b*****s." He added: "It was not aimed at any individuals, more the organisation and the culture, which is target-driven and quite unforgiving."

Mr Locker has since deleted the tweet and issued an apology.

He said: "I do think getting the ticket was a little unsympathetic and I will appeal against it."

Robert Mitchell, chairman of the North Essex Parking Partnership, of which Colchester Council is a member, said: "As an organisation, we take any form of verbal or physical abuse against our staff very seriously.

"The role, as enforcement officers, can be challenging at times and situations like this are unacceptable.

"It is extremely disappointing any councillor would feel the need to use inappropriate language."

A Colchester Council spokesman said: "As soon as the council's monitoring officer became aware of the tweet by councillor Locker, he contacted him to remind him of the members' code of conduct and

requested a public apology. Councillor Locker has made that apology and, for the council, the matter is closed."

WHAT DO YOU THINK?
E-mail gazette.letters@nqa.com
Please include your address!

Picture: NIGEL BROWN CO110834

Your chance to snap up a bargain in Townrow's big sale

A HIGH street department store is gearing up for its biggest clearance sale in 143 years to sell off £500,000 worth of stock.

Townrow in Braintree will launch its ten-day Great £500,000 Clearance Sale on Thursday, September 24.

A one-day private sale on Wednesday will also treat 500 customers to a head-start.

The store will be closed on Tuesday to ship in thousands of sale items from shops in Frinton, Maldon and St Ives.

Staff from other stores will be

helping with the mammoth sale.

Edward Townrow, managing director, said: "Having all the stock in Braintree will allow our customers to have their pick.

"We want them to have the first view because this is where our heritage is.

"There are a lot of lines that won't have been on sale here before.

"I'm very excited about the event and it is great fun to do.

"It will be brilliant for people to come in and have a real rummage.

Townrow closed its Sale Shop in Long Wyre Street, Colchester, in November last year.

For an invitation to attend the private sale, visit the Braintree and Witham Times front office at 76 High Street, Braintree, CM7 1JP.

Trial over road death

A MAN has denied causing the death of a motorcyclist by driving without due care and attention.

Jason Walmsley, 45, of Church Road, Wickham Bishops, collided with trainee mechanic Josh Marlow, 22, of South Woodham Ferrers, on the A132 in South Woodham last year.

Chelmsford Crown Court was told Walmsley had been in a queue of traffic following an earlier accident near the roundabout in South Woodham Ferrers on July 25.

He tried to carry out a u-turn in his Volkswagen Golf but collided with Mr Marlow's Yamaha motorbike.

A six-day trial is due to start next April.

Fall flower show finals

FRINTON Horticultural Society's final show of the season went off with a flourish as impressive displays of flowers and vegetables dazzled the judges.

The group held its autumn extravaganza at Frinton's McGrigor Hall on Saturday.

Society member David Foster, who clinched a first for his treacle tart, said high-quality floral and vegetable entries were launched for all 59 of the show's categories.

Alice Kerridge was awarded the medal for securing the most points across Frinton Horticultural Society's three shows this season.

University in top ten

ESSEX University has won plaudits for its student experience and research strengths.

The Times and The Sunday Times Good University Guide 2016 ranks the university in the top ten for student experience, the top 15 for teaching excellence and the top 25 for research.

The university has been in the top ten for student satisfaction according to the National Student Survey for the past three years.

AN ESSEX ticket tout was arrested on the eve of the Rugby World Cup. The 30-year-old was arrested following an investigation into ticket fraud. It is alleged he had a parcel of 300 tickets. He has been bailed while investigations continue.

Tory leader says Ben Locker's language was 'unacceptable'

Councillor to be hauled before own committee for his offensive tweet

By WENDY BRADING
wendy.brading@nqe.com

AN outspoken councillor could be dragged before his own committee after he criticised traffic wardens in a tweet.

Conservative councillor Ben Locker vented his rage after he was slapped with a parking ticket after his 40-year-old Triumph Herald car, Daphne, broke down.

He had left a note on the window to explain why the car had been left in Prior Way, Colchester, in breach of parking regulations, but when he returned with a new battery, he found he had been given a £70 parking penalty.

Mr Locker tweeted about his plight and accused the North East Essex Parking Partnership of being "heartless, target driven b*****s".

The professional copywriter later apologised to county councillor Robert Mitchell, who is chairman of the parking partnership and removed the tweet.

Colchester Council initially said the matter, which was reported in the Gazette and some national papers, was closed.

But then it released a new statement saying the matter had now been referred to the council's governance committee - of which Mr Locker is a member.

The statement said: "In light of recent information the matter of councillor Ben Locker's social media postings and following consultation with the council's independent persons, this matter will now be referred to the governance committee.

"The independent persons have recommended this course of action in light of additional details from media coverage.

"Especially as a member of the governance committee, councillor Locker, is expected to have a higher standard of



■ Triumph to disaster - Tory councillor Ben Locker has got himself in trouble for criticising the North East Essex Parking Partnership after his car, Daphne, was ticketed

conduct than that being displayed."

Dennis Willetts, the Conservative group leader on Colchester Council, said: "Ben recognised he had overstepped the mark in criticising the North East Essex

Parking Partnership.

"He apologised to Mr Mitchell and it is my understanding he accepted Ben's apology.

"He also removed the tweet from cyberspace.

"He thought that was the end of the matter but because the issue had escalated, it ended up being referred to the governance committee.

"Andrew Weavers, as the monitoring officer, expects a higher standard of behaviour and language from members of the governance committee because they have added responsibility for the conduct of members of the council."

The council's monitoring officer, expects a higher standard of behaviour from members of the governance committee

"From my point of view, I agree Ben's use of language was perhaps unwise.

"However, as Mr Mitchell accepted the apology, I thought the matter stopped there."

Mr Willetts said the situation had been complicated by the fact the parking enforcement officer was a Colchester Council employee on secondment to the parking partnership, which is run by Essex County Council.

WHAT DO YOU THINK?

E-mail gazette.letters@nqe.com
Please include your address!

Art auction raises £1,000 for hospice

AN art auction and postcard sale has raised more than £1,000 for charity.

Perrywood Garden Centre and Nurseries in Tiptree raised more than £1,300 as part of the Birkett Long £50 challenge.

Under the challenge, teams of

fundraisers are given £50 to use to raise as much money as possible for St Helena Hospice.

Lucy Hook-Child and Hannah Powell took on the challenge of organising an art auction and postcard sale.

The auction, where 30 pieces of

artwork went under the hammer, was hosted by auctioneer Tim Medhurst from Duke's Auctions.

As well as paintings, there were ceramics, jewellery, photography and tapestry up for auction.

Original art work postcards were also for sale as well as high

quality art supplies and books.

Papercraft tutor and independent Stampin' Up! demonstrator Katy Freeman was on hand to help customers create their own postcard sized piece of art and Lucy Hook-Child ran a mono printing workshop.