

STANDARDS BOARD FOR ENGLAND COMPLAINT NO. 2011/12/09

CONFIDENTIAL

1. Introduction

- 1.1 This report has been commissioned by the Monitoring Officer of North Lincolnshire Council ("the Council") following a decision by the Council's Assessment Sub-Committee on the 8 November 2011 that the complaint be investigated pursuant to section 57A (2) of the Local Government Act 2000, as amended.
- 1.2 The investigation was conducted pursuant to the above Act and Regulations issued thereunder.
- 1.3 This is the final report which will be sent to the Council's Standards Committee for consideration. A copy of this report has been sent to both the complainant and the member concerned.
- 1.4 In preparing this report my colleague, Mrs. J. Dodson, who has taken a shorthand minute of most of the interviews undertaken, has assisted me.

2. Nature of the Complaint

- 2.1 The complaint was submitted by Mrs. Zoe Fillingham, who was formerly employed by the Council in the Labour Group Office. She alleged that Cllr. M. Grant had behaved in an aggressive and intimidating manner towards her on a number of occasions, generally in the presence of other officers or members of the Council, and that she had suffered both emotionally and financially as a direct result of his actions.
- 2.2 The complainant alleged that such conduct constituted bullying or intimidation. She stated that this had taken place on a number of occasions. Details of each alleged incident are set out in section 5 of this report.

3. Code of Conduct

- 3.1 The Assessment Sub-Committee directed that I should consider whether there had been a breach of paragraph 3(2) (b) of the Members Code of Conduct adopted by the Council which states as follows:

(b) You must not –

- (i) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006)*
- (ii) bully any person;*
- (iii) intimidate or attempt to intimidate any person who is or is likely to be*
(1) a complainant

- (2) a witness, or
(3) involved in the administration of any investigation or proceedings,
in relation to an allegation that a member (including yourself) has failed
to comply with his or her authority's code of conduct; or
(iv) do anything which compromises or is likely to compromise the
impartiality of those who work for, or on behalf of, your authority.

3.2 It appears to me that the relevant section of this paragraph is 3(2) (b) (ii).

4. Methodology and interviews undertaken

4.1 I offered interviews to the following people:

Mrs. Zoe Fillingham, Complainant
Cllr. Mrs. Christine O'Sullivan
Cllr. Tony Gosling
Mrs. Caroline Kupfers
Mrs. Michelle Higgins
Miss Anna-Marie Coughlan
Cllr. M. Grant.

All persons accepted the invitation to interview except Cllr. Tony Gosling, who informed me in writing that he did not witness any of the alleged incidents.

4.2 All interviews were undertaken at Pittwood House. My colleague, Mrs. J. Dodson, accompanied me at each interview, with the exception of the interview with Cllr. Mrs. O'Sullivan, and took a full shorthand minute. These minutes, together with the notes that I had taken during the interview with Cllr. Mrs. O'Sullivan, were subsequently reduced into a written record of the interview which was sent to each interviewee to check and sign as a true and accurate record of their interview with me. Each interviewee was offered the opportunity to be accompanied at the interview.

4.3 In addition to undertaking the aforementioned interviews I have considered guidance issued by the Standards Board for England, in particular that relating to Bullying and Intimidation.

5. The Evidence

Summarised below are the salient points relating to each alleged incident:

5.1 **Monday 28 February 2011**

5.1.1 Mrs. Fillingham said that this was one of the first incidents that she could recall where Cllr. Grant had behaved aggressively towards her. Up until that point, she and Cllr. Grant had enjoyed a good working relationship.

5.1.2 The incident followed an evening 'get together' in the Blue Bell Public House on Friday 25 February 2011 to mark the retirement of Lindsay Robinson, the Chief Executive's Secretary. Mrs. Fillingham, Mrs. Kupfers and Mrs. Jenny

Clark (the Chief Executive's current Secretary) had all attended and chatted together that evening. Mrs. Fillingham had left early owing to a prior engagement.

- 5.1.3 Mrs. Fillingham said that on the following Monday morning, 28 February 2011, Cllr. Grant had come into the office and accused her of "shit stirring". She said that she had no idea what he meant. Mrs. Fillingham said that Cllr. Grant had been very angry about what she was supposed to have said and had not been interested in anything she had to say in explanation.
- 5.1.4 Cllr. Grant agreed that he had used those words but said that they had not been spoken in anger. He told me that he had heard a piece of gossip over the weekend and assumed it had originated from Mrs. Fillingham. He had therefore pretended to be annoyed with her, but he had not meant anything by it. He did not think that Mrs. Fillingham had taken offence at his words because she did not seem upset. He agreed that he and Mrs. Fillingham had enjoyed a good working relationship.
- 5.1.5 Mrs. Kupfers told Cllr. Grant that this was a misunderstanding and that the particular conversation to which he was alluding had originated with her, not Mrs. Fillingham. She said that things had been blown out of proportion and apologised.
- 5.1.6 The witnesses to this exchange agreed that Cllr. Grant seemed annoyed, but did not feel that he had been bullying or aggressive. I was told that Cllr. Grant was renowned for his moody temperament.

5.2 **Conversation regarding Wind Turbines**

- 5.2.1 The second incident occurred not long after this and centred on a conversation between Mrs. Fillingham and Cllr. Grant about a number of planning applications that had been submitted for wind turbines in Winterton and Burton-upon-Stather.
- 5.2.2 Mrs. Fillingham is a resident of Winterton and said that she had asked Cllr. Grant, who is a member of the Council's Planning Committee, for advice on the planning process and the options open to residents living in the vicinity of the turbines. She maintained that what had started out as a general conversation had ended with Cllr. Grant becoming alarmingly aggressive and hostile, calling her a NIMBY, and shouting angrily that he was going to vote in favour of the wind turbines "just to piss you off". Mrs. Fillingham said that Cllr. Grant had sworn at her on this occasion and had also been angry and waved his hand at her in an aggressive manner. She said that the incident had been very embarrassing and had left an atmosphere in the Labour group Office.
- 5.2.3 Cllr. Grant said that he could not remember having said that to Mrs. Fillingham but that he may have done so, "just to wind her up". He maintained that he called anyone who complained about planning proposals a NIMBY, not just Mrs. Fillingham.

5.2.4 The witnesses could not remember the event with any great clarity and did not remember the conversation becoming particularly heated. They told me that everyone in the Labour Group Office was aware that Mrs. Fillingham liked a good debate and that she "gave as good as she got" in these exchanges. Both Cllr. Grant and Mrs. Fillingham were strong-willed people who often had lively discussions

5.3 **Conversation with Councillor Gosling**

5.3.1 Mrs. Fillingham said that the third incident centred on a joke that she had shared with Cllr. Gosling in the Cabinet Members Office. Cllr. Gosling had made a joking comment to which she had responded in a similar vein. This appeared to enrage Cllr. Grant, who swore at her and told her to "Fuck off back to your office- you're only a "fucking secretary".

5.3.2 Mrs. Fillingham said that she had been shocked by these words and had mentioned the incident to her colleagues, Mrs. Kupfers and Mrs. Higgins, saying that she couldn't believe what Cllr. Grant had just said to her and asking if any of them had noticed Councillor Grant being funny with her of late.

5.3.3 Mrs. Fillingham's colleagues said that they had not witnessed the incident themselves but confirmed that Mrs. Fillingham had mentioned it afterwards, though not straight away.

5.3.4 Neither Cllr. Grant, Cllr. Gosling nor Cllr. Mrs. O'Sullivan could remember this incident.

5.4 **Events between May and June 2011**

5.4.1 Mrs. Fillingham alleged that the build up to the final incident began in May after the Labour Group lost control of the Council. Up until this time Councillor Grant, as a Cabinet member, was supported by two members of staff. After the election, he had enquired who would be looking after him in future and on being told that it was likely to be Mrs. Fillingham, who held an administrative post, said "I'm not being funny but I don't think Zoe is capable of looking after me." Mrs. Fillingham took this to mean that he wanted a better level of support and said that the comments had left her feeling hurt and angry, with her pride and confidence dented, since the issue had been raised in front of all the staff working in the Labour Group Office.

5.4.2 The witnesses to this exchange said that they did not believe that Cllr. Grant's comments had been directed at Mrs. Fillingham personally but had reflected the fact that he was unhappy that he would no longer receive the level of personal support that he had been accustomed to as a Cabinet Member and would have to share Mrs. Fillingham with other members.

5.4.3 Cllr. Grant admitted that he had very much missed the exceptional level of support provided to him by his former assistant, Mrs. Baker, and that he did not want anyone else looking after him. He felt that support for members of

the Shadow Cabinet should be divided equally between the members of staff and not just left to one person (Mrs. Fillingham).

- 5.4.4 Mrs. Fillingham told me that after it had been confirmed (by e-mail) that she would be the future point of contact for all Shadow Cabinet Members, she had asked Councillor Grant whether there were any specific things that he wanted doing or doing differently because she wanted them to have a good working relationship. Councillor Grant said he did not remember her asking this, but she may have done.
- 5.4.5 Mrs. Fillingham then described the arrangements for booking hotel accommodation. She said that this had to be done through Support Services. Councillor Grant had refused to use the designated booking system and had instructed her to search for hotels on-line instead. When he had realised that, at the end of the process, he would have to provide a deposit, he jumped from his seat and shouted "Fuck it, take it to Support Services and let them sort it out" and then stormed out in temper. She said that Councillor Grant had been critical, condescending and patronising, implying that she was incompetent. In fact, she was simply trying to meet Councillor Grant's requirements and had spent quite a long time with Support Services trying to sort things out.
- 5.4.6 Cllr. Grant told me that, up to that point, Mrs. Baker and he had managed hotel bookings between themselves. They searched for hotels together on-line and then Mrs. Baker made the bookings. He had provided her with his credit card details to enable her to do this. He admitted to being a little annoyed when told that bookings had now got to be made through Support Services.
- 5.4.7 The witnesses said that they did not consider the issue of hotel bookings to be a major one: this sort of thing was "just part of working with Members".
- 5.4.8 Mrs. Fillingham said that, following on from this, Mrs. Baker had advised her that Cllr. Grant liked to be provided with concise route directions. Mrs. Fillingham had therefore decided to take a proactive approach and provided route directions for Cllr. Grant. The following morning, Cllr. Grant had confronted Mrs. Fillingham about this. Mrs. Fillingham had explained to Cllr. Grant that Mrs. Baker had told her that he liked to be provided with concise route directions. He had replied angrily that "she maybe did but I've got a sat nav and this is a waste of bloody paper" and thrown the directions onto her desk.
- 5.4.9 Cllr. Grant told me that he had repeatedly asked Mrs. Baker not to provide concise route directions since he had a satellite navigation system and did not need them. He said he did not remember throwing the route directions onto Mrs. Fillingham's desk.
- 5.4.10 Mrs. Fillingham told me that she was both exasperated and deflated by the whole sequence of events. Cllr. Grant's behaviour towards her over the next few days was less amenable than his behaviour towards her colleagues and it made her feel somewhat victimised. Cllr. Grant denied this.

5.5 Incident occurring on 21 June 2011

- 5.5.1 This final incident is the main subject of the complaint and was the catalyst for Mrs. Fillingham's resignation from her post in the Labour Group Office.
- 5.5.2 On the day before the incident (20 June) Cllr. Grant telephoned the office whilst Mrs. Fillingham was at lunch and left a message with Mrs. Kupfers that he wanted Mrs. Fillingham to send an e-mail for him and to book him a hotel in Durham. Mrs. Kupfers relayed this message on Mrs. Fillingham's return to lunch and said that she (Mrs. Kupfers) had dealt with the e-mail. Mrs. Fillingham told me that the thought of making another hotel booking filled her with dread, but she nonetheless went straight to Support Services and spent a fair amount of time looking for hotels which fulfilled the criteria previously laid down by Cllr. Grant.
- 5.5.3 Cllr. Grant returned to the office the next morning (21 June). He walked in without any greeting and said that "Tim's booked at a Premier Inn but there are three of them in this area." Mrs. Fillingham was working at another task, but Cllr. Grant stopped at her chair and told her that he wanted to stay in the same hotel as "Tim". Cllr. Grant was referring to Tim O'Connell, who worked for Rotherham Council. This would have been apparent to Mrs. Fillingham if she had dealt with the e-mail that Cllr. Grant had asked her to send but, because Mrs. Kupfers had sent the e-mail, Mrs. Fillingham therefore did not realise that Cllr. Grant was referring to Tim O'Connell. She asked Cllr. Grant if he meant Tim Allen, who worked in the Environment Team. Cllr. Grant shouted "No! Tim O'Connell" and told Mrs. Fillingham that the number was in his e-mails. Mrs. Fillingham then opened up the e-mail account but found no contact number. By this time Cllr. Grant was becoming increasingly frustrated and red-faced and Mrs. Fillingham said she started to panic. She offered to perform an intralinc search for Mr. O'Connell's contact number, at which point Cllr. Grant apparently gave her a look of utter contempt and shouted at her again, telling her that Tim did not work for North Lincolnshire Council and repeating that the number was in his e-mails. Mrs. Kupfers interjected at this point, explaining that Mrs. Fillingham would have no knowledge of Tim O'Connell because she had not dealt with the e-mail. She told Mrs. Fillingham that Tim was from Rotherham and this resulted in Mrs. Fillingham then starting to undertake an on-line search.
- 5.5.4 Cllr. Grant was by that time standing over Mrs. Fillingham and shouting. Mrs. Fillingham said that she could not remember the exact words that Cllr. Grant used but she remembered putting her hands to her head in a defensive pose and sitting down in an attempt to distance herself from Cllr. Grant. She said "Will you stop having a go at me; I'm under enough fucking pressure". Mrs. Fillingham told me that she now regrets swearing, but Cllr. Grant appears to take no particular issue with this, explaining that colourful language was often bandied about the office. The other witnesses to the incident agree that Mrs. Fillingham was not swearing at Cllr. Grant, she was just swearing because she was under a lot of pressure.

- 5.5.5 Cllr. Grant responded by shouting at Mrs. Fillingham several times, telling her to fuck off. He was very red-faced and angry and gesturing aggressively. He said that he would look after himself and left the office.
- 5.5.6 Mrs. Kupfers then went to report the incident to the Head of Democratic Services, Mr. Holmes. Mrs. Fillingham remained in the office with Mrs. Higgins but, after about twenty minutes could stand the waiting no longer and went to Mr. Holmes' office herself. Mrs. Kupfers was still there.
- 5.5.7 Mrs. Fillingham told me that it appeared that she was expected to return to the office and continue working there as if nothing had happened. She said that she felt to continue working in the same office as Cllr. Grant was completely untenable and that she had no option but to resign from her post.
- 5.5.8 It was agreed by both Mrs. Fillingham and Cllr. Grant that Cllr. Grant had wished Mrs. Fillingham luck in what she was doing in the future. Mrs. Fillingham said that he had said this through gritted teeth and she did not believe that he had spoken to her of his own free will. Cllr. Grant said he had meant what he said sincerely and the words had been spoken of his own free will.

6. Findings

I commenced this investigation by asking Mrs. Fillingham whether she wanted me to investigate all the incidents mentioned in her complaint or just the final incident of 21 June 2011. After consideration, she replied that she was of the opinion that all the incidents constituted examples of bullying and that they had all culminated in the main incident of 21 June. She felt that Cllr. Grant had singled her out for particular criticism and aggressive behaviour. Over time, Cllr. Grant's negativity towards her had become wearisome and stressful to the extent that she dreaded working with him. I have therefore considered each individual incident and whether or not they form a pattern of behaviour. My findings in respect of each incident are as follows:

6.1 **Monday 28 February 2011**

- 6.1.1 Given the divergence in the respective recollections between Mrs. Fillingham and Councillor Grant, I have looked for clarification in the accounts of the independent witnesses to this incident.
- 6.1.2 The witnesses agree that Cllr. Grant did seem annoyed by the incident and I am therefore not inclined to accept his explanation that it was only a joke. However, none of the witnesses felt that Cllr. Grant's behaviour had been bullying or aggressive on that particular occasion.

6.2 **Conversation regarding Wind Turbines**

- 6.2.1 Again, I have relied on the evidence of the witnesses to this incident to determine whether or not Cllr. Grant's conduct amounted to bullying on this occasion.

6.2.2 None of the witnesses recall this incident as being anything out of the ordinary. I was told by various people during the course of my investigation that both Cllr. Grant and Mrs. Fillingham were equally strong minded people who enjoyed lively discussions. One of the witnesses expressed the opinion that Cllr. Grant's parting comments would have been said because he wanted the last word- a trait he shared with Mrs. Fillingham.

6.3 **Conversation with Councillor Gosling.**

6.3.1 It seems that none of the elected members recall this incident.

6.3.2 Cllr. Mrs. O'Sullivan, who although a colleague of Cllr. Grant seems to have a genuine regard for Mrs. Fillingham, told me that she was familiar with the concept of bullying owing to her past employment in the Health Service. She could not remember witnessing any exchange between Councillor Grant and Mrs. Fillingham that might have been described as bullying and, if she had done so, she would have taken the matter further.

6.3.3 None of Mrs. Fillingham's staff colleagues actually witnessed the incident. They do remember her mentioning the incident at a later date but opinion was divided as to whether or not Mrs. Fillingham had seemed particularly upset at the time.

6.4 **Events between May and June 2011**

6.4.1 Mrs. Fillingham described to me how her working relationship with Councillor Grant had deteriorated after the Election. She said that Councillor Grant had started to make flippant comments which, while not in themselves major issues, had been belittling and eroded her confidence still further.

6.4.2 Cllr. Grant said that he could not understand Mrs. Fillingham's comments that their working relationship had deteriorated. He admitted that they argued on occasions, sometimes aggressively, but said that this had always been the case.

6.4.3 The independent witnesses did not feel that Cllr. Grant's behaviour was directed at Mrs. Fillingham personally. They were aware that Cllr. Grant had some personal issues to contend with and felt that, in addition, he was having difficulty in coming to terms with the fact that Labour had lost the election and that he was no longer a Cabinet Member. They commented that Mrs. Fillingham was also under stress, and was worried about the current staffing review.

6.5 **Incident 21 June 2011**

6.5.1. The people that I interviewed were in general agreement as to the events that took place on this occasion: the only difference between their accounts is in the interpretation of such events.

6.5.2 Mrs. Fillingham has told me that Cllr. Grant's behaviour had been aggressive and intimidating and made her feel incompetent, victimised and nervous. She

maintained that it was not acceptable that an elected member should be allowed to discredit, bully or intimidate an officer in this way. She said that his behaviour had left her no option but to resign.

- 6.5.3 Cllr. Grant admits that he had become increasingly frustrated as time went on. He seemed to be aware that his behaviour had been less than exemplary on this occasion but said this was out of frustration that nothing was being done. He admitted to using strong language but said that this sort of language was used quite liberally in the Labour Group office and that no-one usually took offence. He did admit that Mrs. Fillingham had seemed upset following the incident. He said that he had noticed a change in her demeanour and had wondered why because they had had worse “bust ups” in the past and she had never been like that. He did not consider this particular incident to be any different to the others.
- 6.5.4 The independent witnesses agreed that Cllr. Grant did not seem to think that he had done anything wrong but they themselves felt that the incident of 21 June was not the norm. They had been shocked by the outburst, which seemed to have come from nowhere.

6.6 **Bullying**

- 6.6.1 In deciding whether or not any of the incidents complained of constituted bullying I have had regard to the guidance issued by the Standards Board for England.

- 6.6.2 The guidance states:

Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or persons over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.

- 6.6.3 I am of the opinion that none of the incidents leading up to 21 June in itself constituted bullying. Although Mrs. Fillingham maintains that she felt that Cllr. Grant's behaviour was calculated to undermine her, Cllr. Grant denies this and none of the independent witnesses feel that he was acting any differently towards her than he had before.
- 6.6.4 The guidance also states that it is unlikely that a member will be found guilty of bullying when both parties have contributed to a breakdown in relations. The independent witnesses all told me that Mrs. Fillingham was equally as strong-minded as Cllr. Grant, that she enjoyed a good debate, and that she gave as good as she got. I therefore think that, up until 21 June at least, Cllr. Grant genuinely believed that his behaviour towards Mrs. Fillingham was acceptable and that he never attempted to belittle her, either as part of an isolated incident or as a pattern of behaviour.

- 6.6.5 The incident on 21 June itself seems to have been somewhat more than the normal debate and I find that, on this particular occasion, Cllr. Grant's behaviour was intimidating.
- 6.6.6 I next consider the effect that this behaviour had on Mrs. Fillingham. There is no suggestion that her health was undermined but she maintains that it had a detrimental effect on her confidence and that she had no option but to resign. Her colleagues did express surprise that she had resigned and agreed that this might have been an indication of how much the incident had affected her.
- 6.6.7 Finally, I must consider whether or not Cllr. Grant's behaviour was an attempt to undermine Mrs. Fillingham. In my opinion it was not. He seemed genuinely surprised that this incident had affected Mrs. Fillingham to such a degree. This is corroborated by statements made by Mrs. Fillingham's colleagues, who told me that Cllr. Grant did not think he had done anything wrong. Cllr. Grant seems to be as surprised as anyone else that Mrs. Fillingham felt the need to resign: in common with some of the other witnesses he thought that it would "blow over". He said that he genuinely wished Mrs. Fillingham well when she left and was astonished that she had made a complaint against him.
- 6.6.8 I therefore think that, although Cllr. Grant's behaviour on 21 June crossed the bounds of acceptability, it did not amount to bullying.

7. Conclusion

On account of the reasons stated, I find that Councillor Grant did not breach paragraph 3(2) (b) (ii) of the Members Code of Conduct.

Mrs. V. Wilcockson
Principal Solicitor

February 2012