

**Decision Notice
Formal Assessment**

Reference Number:	SH05 28072020
Complainant:	Councillor de Galleani
Councillor(s):	Cllr Webb, Cllr Edsall and Cllr Shepherd
Council:	Dartmouth Town Council
Monitoring Officer:	Catherine Bowen
Assessment carried out by:	Alex Reece
Independent Person:	Trevor Kirkin
Confidentiality requested?	No

1. Documents and information considered:

- Complaint received 28 July 2020;
- Response from Councillor Webb;
- Response from Councillor Edsall;
- Response from Councillor Shepherd;
- Code of Conduct of Dartmouth Town Council;
- South Hams District Council's 'Dealing with Standards Complaints' procedure; and
- Views of the Independent Person.

2. Summary of complaint

The Complainant has alleged that Cllrs Webb, Edsall and Shepherd have broken Dartmouth Town Council's Code of Conduct in connection with a grievance raised by a member of DTC's staff, in particular:

- Improperly using position to confer advantage or disadvantage;
- Bullying or intimidating any person;
- Compromising the impartiality of Council officers;
- Improperly disclosing confidential information;
- Preventing others from accessing information they are entitled to by law;
- Brought the office of Councillor or the Council into disrepute.

3. Outcomes:

(Please refer to the Criteria in the 'Dealing with Complaints' Procedure):

- To take No Further Action (in accordance with the Criteria set out in the Dealing with Complaints procedure)
- To make no finding as to whether there has been a breach of the Code but seek to resolve the Complaint informally

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- To make no finding as to whether there has (or may have) been a breach of the Code and that No further Action be taken as the public interest does not merit further investigation/consideration.
- To refer the Complaint for investigation to determine whether there has been a breach of the Code.
- A finding of a breach of the Code without an investigation.
- To refer the matter to the Police (or other relevant body) where the Complaint alleges that a criminal offence may have occurred under the Localism Act 2011.

4. Decision and reasons:

Decision:

No further action.

Reasons for decision:

Having carefully considered the information listed in box 1 above, and in consultation with the Independent Person, it is considered that it is not in the public interest to pursue this complaint further to formal investigation.

Cllrs Webb, Edsall and Shepherd are currently members of Dartmouth Town Council (“DTC”) and were members of the Council at the time of the alleged breaches, and engaged on the business of DTC at the relevant time; the DTC Code therefore applies.

The evidence reveals that a grievance has been raised by a member of DTC’s staff against another member of DTC’s staff. Cllr de Galleani alleges that Cllrs Webb, Edsall and Shepherd have broken DTC’s Code of Conduct in connection with the handling of the grievance. The substance of the grievance itself, being a complaint against a member of staff against another member of staff is not a matter that the Standards process can investigate; it is a matter for DTC’s grievance procedure and it is governed by employment law. It is noted that DTC has sought, and appears to have followed, external legal advice in this regard.

It is alleged that at the meeting of the Parks and Open Spaces Committee Meeting, Cllr Webb was “defending and making strange comments” regarding the personnel matter and he accepts that he reinforced Cllr Edsall’s emailed sentiments (see below) by commenting “hear, hear”. It is accepted that Cllr Webb used his casting vote as Mayor to “overturn” the Personnel Committee’s recommendation to Full Council, but there is nothing untoward in him doing so.

It is accepted that Cllr Edsall sent an email to councillors accusing them of wanting to “pick up the tab” for a claim of constructive dismissal. The Complaint also refers to comments made by Cllr Edsall regarding the Personnel Committee’s recommendation in the confidential section of the Full Council meeting on 6 July 2020.

It is alleged that Cllr Shepherd approached the member of staff who had raised the grievance with a “predetermined outcome”. There is conflicting evidence regarding this point.

There are indications that breaches of confidentiality have occurred in relation to the handling of the grievance, but the evidence does not support the allegation that Cllrs Webb, Edsall and/or Shepherd are the source(s) of such breaches.

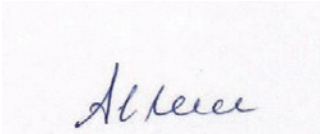
There is insufficient evidence to substantiate that Cllrs Webb, Edsall and/or Shepherd have breached the relevant aspects of the Code of Conduct and, in the Monitoring Officer’s opinion (and in consultation with the Independent Person), the public interest does not merit further investigation or consideration.

South Hams District Council



..... Date:19 October 2020.....

Signed by Trevor Kirkin the Independent Person for South Hams District Council



..... Date:19 October 2020.....

Signed on behalf of the Monitoring Officer for South Hams District Council