

**STANDARDS HEARING PANEL IN RELATION TO POSSIBLE BREACHES
OF THE CODE OF CONDUCT**



DECISION NOTICE

Case refs: GC10/2021 and GC14/2021

Name of Subject Member: Councillor Mary Lanigan

Relevant Authority: Redcar and Cleveland Borough Council

Independent Investigator: Melvin Kenyon (of Kenyon Brabrook Ltd)

Date of Hearing: 21st and 22nd February 2023

Standards Hearing Panel Members:

Chair: Councillor Shelagh Holyoake
Member: Councillor Irene Nightingale
Member: Councillor Vera Rider

Independent Person: Leslie Manship

Clerk/Legal advisor: Jonathan Goolden (of Wilkin Chapman LLP, acting as Deputy Monitoring Officer)

Minute takers /
Democratic Services: Principal Democratic & Scrutiny Officer, Governance Manager

Witnesses:

Called by the DMO:

- a) Corporate Fraud Investigator (Veritau – Internal Auditor)
- b) Assistant Director – Corporate Fraud (Veritau – Internal Auditor)

Called by the Investigator

- a) Mrs Lisa Miller
- b) Mrs Shlomit Lowe

Called by the Subject Member

- a) Managing Director of the Council
- b) Councillor C
- c) Councillor H
- d) Councillor W

1. Background

On 1st October 2021, Mrs Lisa Miller submitted a complaint to the Council, which related to the conduct of Councillor Mary Lanigan. A second complaint was submitted by Mrs Shlomit Lowe on 8th November 2021, also relating to the conduct of Councillor Lanigan. The complaints were similar in nature in that they both related to the conduct of Councillor Lanigan in relation to the Cenotaph at Easington, and as such were dealt with as one complaint by the Council.

The Council's Monitoring Officer (MO) referred the complaint to the Council's Assessment Sub-Committee in accordance with section 5 of its Arrangements for Dealing with Complaints about the Code of Conduct for Members (the Arrangements). At its meeting on 1st December 2021, the Sub-Committee determined that the complaint met the test for deciding whether a complaint could be investigated and resolved to refer the complaint for investigation.

When liaising with the Independent Investigator about the scope of the complaint, the Chair of the Assessment Sub-Committee and Co-opted Independent Member confirmed that the Sub-Committee felt the overall nature of the complaint was that "*Councillor Lanigan, for personal reasons, had allegedly misused her position and Council staff/resources to instigate various actions in support of her husband and to the detriment of the complainants*". The nature of the complaint and the scope having been clarified, an independent investigation was then undertaken by Mr Melvin Kenyon of Kenyon Brabrook Ltd. Mr Kenyon completed his final report on 31st October 2022, having gathered evidence from 20 or so individuals through interviews between 5th January and 9th June 2022 and the collation and examination of Council documents and police interview records.

During the investigation, it became apparent that the MO was a potential witness to some matters. The MO therefore appointed an external solicitor as a Deputy Monitoring Officer (DMO) to exercise his functions in relation to the determination of the complaint.

In consultation with the Council's Independent Person, the DMO determined that the investigation had been carried out properly and convened a meeting of the Assessment Sub-Committee in accordance with section 12 of the Arrangements. At its meeting held on 23rd November 2022, the Sub-Committee resolved that the final report be referred to a Hearing Panel.

In consultation with the members of the Hearing Panel, the DMO issued directions on 3rd and 10th February 2023 for the conduct of the hearing. Training for Panel members was also provided on 3rd February. The Hearing Panel met on 21st and 22nd February 2023 to consider the complaint and the investigation report.

2. Procedural matters

The Panel considered whether to hold the hearing in public or in private. It decided to hold the hearing in private and therefore resolved to exclude the press and public from the meeting.

The resolution was made because of the need to process fairly and lawfully sensitive personal data contained in the reports or otherwise likely to be disclosed in the Hearing relating to the Subject Member's husband, and noting a request made by Cleveland Constabulary that the Panel take into consideration that the Investigator's report contained certain information which ordinarily would be privileged or protected from disclosure.

The Panel acceded to a request from the Investigator that Mrs Miller remain in the hearing for its duration apart from when the Panel deliberated in private. The Panel also granted a request by the Subject member that she be accompanied by Councillor W as her supporter on the second day of the hearing.

3. Findings of Fact

In reaching findings of fact, the Panel had regard to the evidence presented by witnesses at the hearing and to such elements of the investigation report which were unchallenged.

Background

Councillor Lanigan is one of three elected members of the Loftus Ward of Redcar and Cleveland Council. She is a member of the Independent Group and is the Leader of the Council.

Loftus Ward includes the village of Easington. Easington Cenotaph is one of a number of war memorials owned and maintained by the Council. The Cenotaph fronts onto the A174 Whitby Road. It comprises an inner grassed and paved area and an outer wooded perimeter on its west, north and east sides, separated from the inner area by a stone wall.

The Cenotaph is adjacent to a private residence on its northwest side, with the driveway to that private residence located on the west side of the Cenotaph. That residence is occupied by Mr and Mrs Miller and their family. There is another private residence adjacent to the Cenotaph on its northeast and east sides, which is occupied by Mrs Lowe and her family.

Early voluntary activity at the Cenotaph

The Panel noted Councillor Lanigan's assertion that in 2018 the Cenotaph was the subject of extensive community volunteer activity to clear it of refuse but found it unnecessary to make a finding of fact as to this period. The Panel did find that Councillor Lanigan's husband was actively and regularly involved in the maintenance and upkeep of the Cenotaph, at times it appeared on an almost daily basis.

Late 2019 and early 2020

In October/November 2019, Mrs Miller planted 80 or so leylandii in the land between her property and the Cenotaph. She had previously planted some leylandii at the end of her drive in around 2017. Relations between Mrs Miller and Councillor Lanigan's husband were cordial at the time of the planting.

Those cordial relations between Mrs Miller and Councillor Lanigan's husband broke down in around mid-March 2020. Between mid and late March 2020, Councillor Lanigan's husband removed the leylandii planted at the bottom of Mrs Miller's drive.

The leylandii hedge – April 2020

It is unclear to the Panel where the exact boundary line lies between Mrs Miller's property and the Cenotaph, as conclusive evidence has not been provided by either side. It is however clear that Councillor Lanigan believed that the leylandii which Mrs Miller had planted in October/November 2019 were planted on Council land, and that Mrs Miller believed that she had planted the leylandii on her own land.

Councillor Lanigan asked for a letter to be sent to the Millers to remove the leylandii, and for a second letter to be sent when the leylandii had not been removed after a few days.

Two typed letters were sent on Council headed notepaper:

- a) The first is dated 9th April 2020 and requests that the leylandii be removed. The letter was unsigned and was addressed to '*The Householder(s)*'. The envelope was hand-addressed to Shaun and Lisa Miller.

- b) The second is dated 14th April 2020, also unsigned and addressed to '*The Householder(s)*', and warned the Millers that if the leylandii were not removed by 16th April 2020 that arrangements would be made for them to be removed on Friday 17th April 2020.

A Council officer wrote the above letters, but it is unclear how they came to be addressed and delivered to the Millers.

The Panel notes that the timeframe between the first letter of 9th April 2020 and the deadline of 17th April 2020 was unusually short, particularly given the two Easter bank holidays on 10th and 13th April 2020.

On 17th April 2020, Council officers attended the Cenotaph and removed the leylandii trees. Councillor Lanigan was present at the Cenotaph in advance of the officers' arrival. Mrs Miller challenged their actions. Neither the officers, nor Councillor Lanigan, engaged with Mrs Miller.

9th August 2020

A heated verbal exchange took place at the Cenotaph between Councillor Lanigan, Councillor Lanigan's husband, Mrs Miller and others. Councillor Lanigan called the police, identified herself as a councillor, and asked for police assistance.

Bullet gun

The Panel notes that Councillor Lanigan has said that when she was at the Cenotaph on her own, she thought she overheard Mrs Miller use the words "*bullet gun*". Councillor Lanigan reported this to a Cleveland Police Officer which resulted in the Police Firearms Licensing Unit making enquires of Mr and Mrs Miller. Councillor Lanigan's explanation for this incident has varied and it is unclear to the Panel what her motivation was in making any report to the police.

Burning of rubbish

Councillor Lanigan raised the subject of burning of refuse at the Cenotaph with the Council's Managing Director in late March 2021. Councillor Lanigan was personally involved in seeking authorisation from Council officers for such burning. Smoke from fires set by Councillor Lanigan's husband at the Cenotaph caused a nuisance to Mrs Miller. The burning of refuse at the Cenotaph appears to the Panel to have been unnecessary, given that arrangements could have been made for the collection and disposal of such refuse by the Council.

Whilst the Panel acknowledges the interest in local issues by Councillor Lanigan as a ward councillor, it is unclear why she chose to involve herself personally in matters involving her husband when her fellow ward councillors could have intervened.

Alleged assault on Council officer

On 22nd July 2021, Council officers trimmed the area beyond the Cenotaph inner wall. When Councillor Lanigan and her husband visited the site, they were very upset because some tree saplings planted there by local volunteers and a hawthorn hedge had been damaged by the trimming.

Councillor Lanigan shouted "*like a banshee*" at the officer who was present, screaming at him saying "*who's cut this? Who's told you to cut this? Why have you cut this? Me and my husband have been taking care of this area for several years*". The officer told the investigator that whilst Councillor Lanigan was "*screaming, shouting and bellowing on*", he thought that was the wrong attitude to have but he just listened because she was the Leader of the Council.

Councillor Lanigan's husband then threw a three-foot-high tree with an 18 inch root ball at the Council officer's head. The root ball struck the officer, causing soil and grit to enter his eye and clothing. The officer could not get the soil out of his eye which was bloodshot and closed. He had to go back to his van to use a juice bottle to swill and clean his eye. Councillor Lanigan *"kept a poker face when it happened. There was no reaction or apology"* and was still screaming, ranting and saying officers had done something they should not have done. After around 15 minutes, Councillor Lanigan said *"I'm sorry about that"*. The officer found Councillor Lanigan's behaviour astonishing, shocking and appalling.

Another officer received *"a direct, very angry, very loud phone call"* from Councillor Lanigan, demanding that he turn up at the Cenotaph because officers had destroyed the hawthorn hedge. Councillor Lanigan had a series of *"abrupt"* telephone conversations with the officer which shocked and disgusted a further officer who listened to the calls on a speaker phone.

As a result of this incident, Councillor Lanigan's husband was added to the Caution Advised System – a database internal to the Council used by officers as a means of highlighting members of the public who had displayed aggressive and/or violent behaviour and are considered a potential risk to staff.

On 23rd July 2021, a letter was sent to Councillor Lanigan in the Managing Director's name praising her husband's work at the Cenotaph. Given the Managing Director was on holiday on 23rd July 2021, it is unclear how this letter was written and sent.

Assault on Mr Miller

On 15th August 2021, Councillor Lanigan's husband physically assaulted Mr Miller at the Cenotaph. He was convicted of common assault in March 2022.

Councillor Lanigan called the police at the time of the assault. She identified herself as the Leader of the Council and falsely told the call handler that the assailant was Mr Miller.

Following the call, Councillor Lanigan verbally supported, albeit briefly, her husband's veiled threat to let Mrs Miller's children know that the previous occupant of their home had committed suicide.

Fence around Cenotaph

The Council installed a temporary fence round the outer boundary of the Cenotaph on 19th August 2021. It was replaced with a permanent wooden fence over 18th and 19th October 2021.

The Managing Director has indicated to the Panel that the installation of the fencing was his decision.

CCTV at the Cenotaph

The Panel noted that the investigator presented evidence on work undertaken by Council officers to investigate the possible installation of CCTV at the Cenotaph. It is unclear to the Panel whether Councillor Lanigan or another councillor may have been the driving force behind such work, and in any event, CCTV was not installed.

Banning letters

In early October 2021, Mrs Miller submitted a corporate complaint to the Council, making certain allegations concerning Councillor Lanigan's husband.

On 11th October 2021, the Council's Monitoring Officer sent a letter to Councillor Lanigan's husband effectively banning him from the Cenotaph and surrounding area. This letter was re-sent to Councillor Lanigan's husband on 14th October 2021, his presence having been noted at the Cenotaph since the ban was implemented.

On 28th October 2021, Councillor Lanigan and two other councillors attended a meeting with the Managing Director and another officer. Notes of the meeting were taken by a third officer. The meeting concerned events at the Cenotaph. Councillor Lanigan expressed various detailed concerns about her husband and alleged that the Millers were shouting abuse at him and calling him names. She indicated that her husband had health issues and did not understand why he should be banned from the Cenotaph.

The Managing Director overturned the ban following the meeting of 28th October 2021.

Finances

Noting the Internal Audit report by Veritau and the Managing Director's evidence that he authorised relevant expenditure, there is no indication of improper conduct by Councillor Lanigan in respect of finances at the Cenotaph.

Portrayal of the Millers

The minutes of the meeting which took place on 28th October 2021 record Councillor Lanigan saying *"Mr and Mrs Miller aren't married, and she is a single mum with 3 children. She has said that her husband is a bully, maybe she is vulnerable. He is very cruel with the dog; they have a big Alsatian"*. Mrs Miller has contested this description of her and her husband, and the Panel finds it to be wrong.

4. Considerations in making its decision

In making its decision, the Standards Hearing Panel considered:

- a) the DMO's report;
- b) An investigation report by Veritau entitled *"Officer actions relating to Easington War Memorial and volunteers"* and evidence from Veritau staff;
- c) the Investigating Officer's report;
- d) **representations** from the Independent Investigator;
- e) representations from Councillor Lanigan;
- f) evidence from the complainants;
- g) evidence from Councillor Lanigan's witnesses;
- h) the views of the Independent Person;

The Panel also took into consideration guidance produced by the Local Government Association relating to the Code of Conduct.

5. Whether or not Councillor Lanigan has failed to follow the Code of Conduct

The Panel considered whether Councillor Lanigan may have breached the following paragraphs of the Council's Code of Conduct: -

- 1.1 You must treat others with respect.
- 1.3 You must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of Members.

- 1.4 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.
- 1.5 You must not bully or harass any person. Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.
- 1.7 You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 1.10 You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person an advantage or disadvantage.

Capacity

The Panel finds that Councillor Lanigan was acting as a councillor and therefore subject to the Council's Code of Conduct in relation to the above incidents. The Cenotaph was Council owned and maintained. She identified herself as a councillor when calling the police. She interacted with Council officers as a councillor and sought to deploy Council resources.

Paragraph 1.1 – You must treat others with respect

The Panel finds that Councillor Lanigan's conduct towards the officer on 22nd July 2021 demonstrated a significant lack of respect. She shouted and screamed at him for a sustained period over what should have been regarded as a relatively minor matter. When her husband then assaulted the officer by throwing a small tree and root ball at him, she persisted with her verbal attack. Though she said she was sorry after about 15 minutes, this appeared to the Panel to relate to her husband's assault on the officer, and not her own conduct.

The Panel finds that Councillor Lanigan's conduct towards the second officer on 22nd July 2021 in a series of abrupt, loud and angry telephone calls was unwarranted and disrespectful.

The Panel finds that Councillor Lanigan failed to treat Mr Miller with respect by falsely claiming to the police on 15th August 2021 that it was Mr Miller who had assaulted Councillor Lanigan's husband, whereas it was Councillor Lanigan's husband who was convicted of common assault of Mr Miller. Following that call, Councillor Lanigan's verbal support, albeit brief, of her husband's veiled threat to let Mrs Miller's children know that the previous occupant of their home had committed suicide, was also disrespectful to the Millers.

The Panel finds that Councillor Lanigan's description of the Millers at the meeting on 28th October 2021 failed to treat them with respect. Her language was pejorative and without foundation.

*Accordingly, the Panel finds that Councillor Lanigan has **breached** paragraph 1.1 of the code of conduct.*

In considering whether the above incidents amount to disrespect, the Panel has considered the applicability of the right to free speech set out in Article 10 of the European Convention on Human Rights. The Panel considers that the conduct of Councillor Lanigan towards Council officers and the Millers amounted to mere personal abuse and did not attract the enhanced protection conferred by Article 10 on political statements. As such, it is unnecessary for the Panel to determine whether a finding of a breach of the code is a proportionate interference in those Article 10 rights.

Paragraph 1.5 – You must not bully or harass any person etc

The Panel has given very careful consideration to whether Councillor Lanigan breached paragraph 1.5 of the code, which requires Members not to bully or harass others. The Panel acknowledges the strong antipathy between the Millers and Councillor Lanigan and it has heard with sadness of the significant distress experienced by both complainants. The Panel also recognises Councillor Lanigan's natural concern for the wellbeing of her husband. The Panel expresses surprise at the sustained focus of the Council on the conduct of the Millers. However, given in particular the clear acceptance of responsibility for the Council's actions at the Cenotaph by the Managing Director, it is unpersuaded of the investigator's view that Councillor Lanigan has herself bullied and harassed the Millers by her actions.

*The Panel therefore finds Councillor Lanigan has **not** breached paragraph 1.5 of the code.*

Paragraph 1.7 – You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

Similarly, given the Managing Director's evidence that he himself authorised the Council's actions in respect of the Cenotaph, the Panel finds insufficient indication that Councillor Lanigan breached paragraph 1.7 of the code by doing something to compromise or which is likely to compromise the impartiality of those who work for or on behalf of the Council.

*The Panel therefore finds Councillor Lanigan has **not** breached paragraph 1.7 of the code.*

Paragraph 1.10 – You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person an advantage or disadvantage

However, the Panel has been disturbed to find multiple occasions, such as the meeting on 28th October 2021 and the authorisation to burn rubbish in March of that year, where Councillor Lanigan misused her position as a leading councillor to benefit or seek to benefit her husband. Her conflict of interest appeared to be plain to all but herself, and her lack of judgement and insight in this regard is of particular concern to the Panel. She should not have been involved in any Council meetings or decision making which related to her husband, either leaving that to officers or to other Members.

*The Panel therefore finds that Councillor Lanigan has **breached** paragraph 1.10 of the code.*

Paragraph 1.3 – You must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of Members.

AND

Paragraph 1.4. – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

These are serious breaches of the code which the Panel considers would both reduce the public's confidence in Councillor Lanigan being able to fulfil her duties as a councillor and adversely affect the reputation of Members of the Council generally.

*Accordingly, the Panel also finds that Councillor Lanigan has **breached** paragraphs 1.3 and 1.4 of the code.*

6. Sanctions (and/or recommendations)

The Panel welcomes Councillor Lanigan's apology at the Hearing for her actions towards Council officers and her recognition that, in her own words, she had "*crossed the line*". Nonetheless, the Panel has found a number of serious breaches of the Code and has decided on the following sanctions: -

That: -

1. This decision notice be made public when approved by the Panel Chair; and
2. The Panel recommends to Council that Councillor Lanigan be censured.

The Panel recommends to the Monitoring Officer that in providing training to members on the Code of Conduct, he includes the handling of personal conflicts of interests.


Right of Appeal

There is no right of appeal against the Panel's decision and recommendations, subject to Judicial Review or a decision of the Local Government and Social Care Ombudsman.

Copies of this Decision Notice have been sent to:

The Members of the Hearing Panel
Councillor Lanigan
Mrs Miller (1st complainant)
Mrs Lowe (2nd complainant)
Leslie Manship, Independent Person
The Independent Investigator
The Monitoring Officer

Signed:


Councillor S Holyoake
Chair of the Hearing Panel

Dated:

24/2/2023