

Doncaster Metropolitan Borough Council

Case Reference: PC 07/15

**Report of an investigation
Councillor Michael Hennessey
Thorne Moorends Town Council.**

Investigation under s28 of the Localism Act 2011, Helen Potts, Principal Legal Officer at Doncaster Metropolitan Borough Council appointed by Scott Fawcus, Monitoring Officer for Doncaster Metropolitan Borough Council.

Date 12th May 2016

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Note: Annex 1 is NOT FOR PUBLICATION because it contains exempt information within Paragraphs 1 & 3 of Part 1 of Schedule 12(a) of the Local Government Act 1972 (as amended). (Information relating to any individual and the financial or business affairs of any particular person (including the authority holding that information))

1. Executive Summary and List of Key Individuals

1.1. Two complaints were received against Councillor Michael Hennessey of Thorne Moorends Town Council:

1.1.1. Sharon Foster submitted a formal complaint to Doncaster Council on 5.1.16 that Councillor Hennessey had interfered with goods; removing them from a council store room and leaving them at her home on 22.11.15 in an inappropriate manner when he had no Council authority to do so and that was a breach of the Code of Conduct.

1.1.2. Councillor Susan Durant of Thorne Moorends Town Council submitted a formal complaint to Doncaster Council on 15.1.16 alleging that on 8.12.15 Councillor Hennessey had physically assaulted her before the start of a town council meeting and that this was a breach of the Code of Conduct.

1.2. I conclude as a result of the investigation that Councillor Hennessey has breached Thorne Moorends Town Council's Code of Conduct in that:

1.2.1. He has not behaved in such a way that a reasonable person would regard as respectful

1.2.2. He has acted in a way which a reasonable person would regard as bullying or intimidatory.

1.2.3. He has not used the resources of the Council in accordance with its requirements.

1.3 The key individual's in this case (with the abbreviations used) are;

Parish Councillor Michael Hennessey (CH)

Parish Councillor Susan Durant (SD)

Sharon Foster (SF)

Jeremy Sherlock, the Clerk to Thorne Moorends Town Council (JS)

Annie Farrand (AF)

Rachel Durant (RD)

Councillor Mark Houlbrook (MH)

1.4 The draft report dated 15th April 2016 was sent to the Complainants and to Councillor Hennessey for their comments. I have addressed the key issues raised through this in section 7 and have made some minor amendments to the report. In

addition a further complaint was sent to the Monitoring Officer on 25.4.16 from Lyn Ryan concerning an incident last year and this is considered in section 7.

2. Councillor Hennessey's Official Details

- 2.1. Councillor Hennessey was elected to office on 7.5.15 for a term of 6 years.
- 2.2. Councillor Hennessey currently serves on the following committees: – all Councillors are on Policy and Resources and Planning and Amenities Committees. Cllr Hennessey is also vice Chair of Policy and Resources, a member of the Neighbourhood Plan and Community Development Sub Groups, and represents the Council on the DMBC PCJCC, Thorne and District Anglers Association, and Friends of Thorne Community Wood.
- 2.3. Councillor Hennessey gave a written undertaking to observe the Code of Conduct on 19.5.15.
- 2.4. All Thorne Moorends Town Councillors were provided with the Code of Conduct as noted in the Minutes of the Council meeting of 19.5.15. Councillor Hennessey has attended a 'Councillor Skills and Development Seminar' on 18.6.15 organised by Yorkshire Local Council's Association. Councillor Hennessey has received training on the Code. Councillor Hennessey has received guidance on the Code of Conduct on 13.10.15 when Roger Harvey, former Monitoring Officer for Doncaster Metropolitan Borough Council and Phil Beavers, Doncaster Metropolitan Borough Council's Independent Person attended the Thorne Moorends Town Council Meeting.

3. The Relevant Legislation and Code.

S27 of the Localism Act 2011 requires that an Authority adopt a Code of Conduct to promote and maintain high standards of conduct by its members. Under s28 the Principal Authority, Doncaster Borough Council must have arrangements for handling complaints regarding allegations of member misconduct.

Thorne Moorends Town Council has adopted a Code of Conduct (at Appendix A) in which the following paragraphs are included:

Member obligations

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations:

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

4. The Evidence Gathered and its consideration

4.1 I was asked to investigate the complaints made against Councillor Hennessey on 29.1.16.

I have taken account of oral evidence from:

- Councillor Susan Durant, Complainant on 26.2.16 at the Civic Office
- Annie Farrand on 3.3.16 at the Civic Office
- Clerk Jeremy Sherlock on 9.3.16 at the Civic Office
- Rachel Durant (daughter of Councillor Durant) on 11.3.16 by telephone
- Councillor Mark Houlbrook on 11.3.16 at the Civic Office
- Sharon Foster on 5.4.16 at the Civic Office.
- Councillor Hennessey by telephone on 19.2.16 and 18.3.16.

Notes from these meetings are attached at Appendix B.

Councillor Hennessey did not wish to meet with me, wishing his police statement regarding the 8.12.15 incident to be his evidence. I have written to him on three occasions (16.2.16, 2.3.16 and 15.3.16) detailing the importance of meeting with me. The Monitoring Officer has also written to him on 17.3.16 reiterating the importance of participating in the investigation.

I have spoken to Councillor Hennessey by telephone on two occasions and my notes are attached at Appendix B (19.2.16, 18.3.16). I have also considered his emails of 8.2.16 to Roger Harvey, his formal complaint of 6.2.16 and his email to Scott Fawcus of 21.3.16, all of which are attached at Appendix B.

Councillor Hennessey did submit a formal complaint against Councillor Durant on 6.2.16. The response of the Monitoring Officer of 9th February 2016 details that no further action would be taken as it was only submitted once Councillor Hennessey was aware of the complaint against him.

As requested by Councillor Hennessey, I did seek to obtain a copy of his police statement concerning the incident of 8.12.15. However following the SYP Legal Service letter of 21.3.16 detailing the process involved, it was decided not to proceed for the following reasons:

- The time involved (28 days then a further 21 days before a statement may be released)
- Sufficient evidence of Councillor Hennessey's perspective had been obtained from the detail he has provided in telephone calls and in the emails and complaint that he has sent.
- Councillor Hennessey would also have the opportunity to comment on the draft of this report.

- The Police statement would not add to this as their investigation was focused upon only criminal matters, this Code of Conduct investigation has a wider remit and a lesser burden of proof..
- P.C. Briars has confirmed by email that she did not say it was ‘Councillor Durant’s fault’ as alleged by Councillor Hennessey. PC Briars has also rejected Councillor Hennessey’s suggestion that the Police were looking to prosecute Cllr Durant for “wasting Police time”
- The Police interviewed Cllr Hennessey solely about the Councillor Durant incident on 7.1.16 not the other matters which this this investigation covers

4.2. I also have taken account of documentary evidence obtained, all contained within Appendix B:

- Email correspondence with PC Briars following the complaint to the police on the 8.12.15 incident.
- Councillor Hennessey’s email to Roger Harvey on 8.12.15, his formal standards complaint of 6.2.16 and his email of 9.2.16.
- Rachel Durant’s emails
- Thorne Moorends Town Council meetings minutes, code of conduct and social media policy

4.3. I wish to record my thanks for the co-operation and courtesy shown to me by those whom I interviewed.

Background

The history of two conflicting political parties and individuals at Thorne Moorends Town Council was detailed by all those involved.

Following the changes to Councillor Conduct made by the Localism Act 2011, Doncaster Council has been trying to promote internal resolution within local Parish Councils.

There has been a history of difficulties reported to Doncaster Council since the May 2015 elections at Thorne Moorends Town Council. In response to this, Roger Harvey, Monitoring Officer at Doncaster Borough Council (until 30.2.16) and Phil Beavers, Independent Person under the 2011 Act, visited Thorne Moorends Town Council on 13.10.15. The inappropriate issue of use of Facebook by Councillors was addressed in a social media policy adopted by the Town Council on 9.6.15, and issues concerning this are referred to in the Town Council minutes of 9.6.15 (2760); 1.9.15 (4257) and 13.10.15 (4272).

The change in the balance of power in May 2015 at the Town Council with Labour losing seats to the Community Group, and Councillor Hennessey being appointed caused tension.

Past animosity arose, in accounts by Annie Farrand, Rachel Durant, the Clerk, Sharon Foster, and Councillor Durant, due to a food bank matter. As reported by Councillor Hennessey, the Council premises used by the food bank required repair work. The works were carried out on a Wednesday meaning that the food bank was closed. Councillor Hennessey apparently refused alternative premises. This event appears to have caused great upset to Councillor Hennessey and the phrase 'you closed my food bank' has been used by him in public to attack Annie Farrand.

Further tensions arose within the Town Council over the possible sale of The Winning Post, a Council building. The lead up to the meeting of 8.12.15 is shown in the Town Council minutes of 1.9.15 (resolved to invite bids and carry out consultation); 13.10.15 (update); and 3.11.15 (resolved disposal be agreed in principle). The meeting of 8.12.15 was to vote on rescinding the sale of the building. Views on the future of the building were split on party lines; some members of the Community Party supported the sale, the Labour party supported retaining the building.

All those interviewed consider that the poor relationships need to be put aside for the good of the Borough but individuals seem to be unable to do this. Sharon Foster spoke particularly powerfully of the Council having the benefit of strong Councillors who could really benefit Thorne but the infighting and hostility, so evident at each Council meeting, are preventing the Council working for the good of the people.

In his email of 8.12.15 Councillor Hennessey states: 'that all this infighting should stop, for the good of Thorne and Moorends people'.

Café items incident (complaint by Sharon Foster)

The Incident

Sharon Foster had been the tenant of a café on premises owned by Thorne Moorends Town Council. In September 2014, Mrs Foster closed her café and was subsequently involved in negotiating commercial terms with the Town Council. On 22.11.15 Councillor Hennessey arrived at Mrs Foster's home without an appointment and proceeded to return several items left by Mrs Foster at the café. According to Mrs Foster's evidence, Councillor Hennessey behaved in a loud and abusive manner and caused embarrassment and upset to Mrs Foster. Councillor Hennessey also disclosed confidential business information about Mrs Foster without the consent of either Mrs Foster or Thorne Moorends Town Council.

The key disputed facts are:

- Whether Councillor Hennessey had Council authority to remove items from the Council control to return to a former tenant.

- Whether he acted appropriately in returning them directly to Sharon Foster on 22.11.15.
- Whether his manner in speaking to Sharon Foster on this date was appropriate.

[Note: Further details are set out in Annex 1 to this report. Annex 1 is **NOT FOR PUBLICATION** because it contains exempt information within Paragraphs 1 & 3 of Part 1 of Schedule 12(a) of the Local Government Act 1972 (as amended). (Information relating to any individual and the financial or business affairs of any particular person (including the authority holding that information)).

8.12.15 incident (complaint by Councillor Susan Durant)

The key disputed facts are:

- Whether Councillor Hennessey grabbed and held Councillor Durant's arms.
- Whether Councillor Hennessey acted inappropriately to a member of the public and blocked access/exit to a room.
- Councillor Hennessey states he was assaulted and injured and that the police agreed that it was Councillor Durant's fault.

The Complainant's Evidence

Councillor Susan Durant, in her complaint form, states that she had asked the Clerk JS to open the Town Council building early at 6pm due to the numbers of public expected to attend the Council meeting that evening and JS had agreed. A larger meeting place had been requested by the Labour group and refused. Her Mother (Annie Farrand) was already in the assembly room and SD followed CH into the room, aware that 'this person is very volatile and always verbally attacks Annie Farrand'. On entering the room CH began shouting at Annie Farrand to get out, telling her that she wasn't allowed in and if she didn't move he would physically throw her out. SD informed him he would do no such thing, CH responded by also telling SD to get out, to which SD stated that she was a Councillor and she had every right to be there. CH continued to shout and threaten AF; telling her that he would physically remove her. CH moved towards AF in an aggressive manner. SD tried to pass CH (to reach AF), at which point CH turned towards SD, grabbed both her forearms and pushed her back against the wall. SD was unnerved by this, she SD told CH to get off her and SD managed to wrestle one arm free to try and push her way past CH but CH then used the physical force of his body to prevent SD passing him. SD described this as CH 'belly bouncing' her. AF asked JS to call the police and JS refused. SD then called 999. CH went to close the door and shut it in MH's face. The door was opened again, by Rachel Durant and SD wedged the door open with her foot. This allowed SD to open the door from her side also SD. AF opened

the emergency exit and left the room, and as AF had left, CH let the door open. SD asked MH to come and sit with her at this point as she did not feel safe.

The words that SD uses to describe CH are volatile, aggressive, threatening and intimidating.

Annie Farrand's Evidence

AF is SD's mother and has a long history of political involvement which she detailed. AF was involved in the decision to close Council premises for repairs which led to the food bank being unable to open for a day. This event remains a source of tension with CH.

AF explained that CH and Councillor Roy Turner wanted the Council to accept a bid for £15,000 instead of £30,000 for the sale of the Winning Post pub as the bidder would give free use of the premises for 1 year for the food bank that Councillor Hennessey runs. The community was upset over the sale of the Winning Post. AF arrived at 6.20pm so that she could get a chair as she is awaiting a hip operation. JS allowed her in to the room; she was the first there. JS asked her to sign in and to encourage others to do so. CH then walked into the room and said 'get out' to her. JS was at the door too. AF replied: 'I'm in order' and JS responded 'okay', mumbled and left the room.

AF recalls that Councillor Hennessey said 'if you don't get out I'll physically remove you.' CH started to move towards AF.

SD entered the room; AF thought SD may have left her bag and had come in to retrieve it. At this point CH grabbed SSD and pinned her against the wall. CH's hands were on SD's arms; CH was pushing SD. SD requested that JS phone the police; JS responded that he was not getting involved. SD freed herself from CH and phoned the police. There is little space between the table and the wall and CH has pinned SD by the wall until she was able to push him away. CH closed the door of the room. RD then came to the room and tried to enter though CH was stopping entry. AF left the room using the fire exit (that led round to the corridor by the other entrance to the room). AF was not sure what would have happened if there was not an alternative exit. AF returned to the room for the meeting. During the meeting, CH had a real go at Councillor Karen Readmire who was in support of retaining the Winning Post (she and another Councillor had resigned from Community Group over the sale). The decision was taken that the Winning Post was not to be sold.

At a more recent council meeting, AF went to see JS (as she is still on Working Group and Allotment Group). JS told her to go in to the meeting room, however CH was already there and said to AF "get out", "get out", "you closed my and wife's food bank for weeks" AF replied "you are a blatant liar and it's about time it stopped."

CH likes to use Facebook; so he doesn't have to face those he is in conflict with. He has been using Thorne Community Facebook page to be abusive. AF stated that

- He has only has been elected through lies – people say now they would not have voted for him.
- He doesn't like others success, doesn't like others disagreeing with him.
- Annie by her own admission is prepared to stand up to CH. He is an arrogant bully.
- There was a car accident in village involving a young couple CH had blamed the driver stating he had taken "too much cannabis." on Face Book. A relative came to a Council meeting and asked for CH's resignation stating that CH should not make statements on Facebook and should resign – those in attendance at the meeting applauded the comment.

Rachel Durant's Evidence

RD is Councillor Durant's daughter and was previously a Thorne Town Councillor but had not stood at the last election due to work commitments. She had emailed Roger Harvey on 10.12.15 setting out her complaint regarding CH's behaviour and this was repeated in her telephone conversation with me on 11.3.16. On 10.12.15. RD had travelled by bus to the meeting with other residents. RD had knocked on the Council Chamber door; she heard voices and heard her mum say "that will be Mark (Houlbrook), let him in". She tried the door but it was locked and heard Councillor Hennessey shouting 'nobody is going anywhere, in or out, you're not coming in'. 'There was clearly a commotion in the room and so RD banged forcefully on the door before resorting to telling CH that if he didn't open the door she would call the Police; RD believed that "it was entrapment." The door opened abruptly and CH was stood directly in front of RD, facing RD, with one hand on the door and one hand firmly holding SD's arm (RD recalls that it was SD's left arm.) CH shouted that RD had no right being there and that she wasn't getting in. RD wedged the door open with her foot and advised that RD was delivering a message to SD that she was to call her husband CH then proceeded to try and slam the door into RD's face. CH was unable to close the door although RD believes that his intention was to injure her with the door causing real injury. JS was present during this and said he was not getting involved. CH also tried to close the door in Councillor Houlbrook's face. Rachel's grandma, AF then appeared saying she had come out of the emergency exit. CH then opened the door and people started to come in.

RD considers that CH has a vendetta against AF arising from when the food bank was closed for a day. RD cited examples of his poor behaviour included Facebook comments following a car crash, allegations by a shopkeeper over his behaviour, a vendetta against the Allotment Association and his treatment of the Parish Council staff. . At every public meeting complaints have been made about him. RD stated that he fails to respect anyone else's opinion; holds disagreements for a long time; is

quite nasty, aggressive and intimidating; and there is no reason for him to take matters so personally.

In the December Council meeting RD recounts that CH lunged over the table and shouted traitors at the two Community Party Councillors who had decided to become independent following the Winning Post issue. She did consider his behaviour improved when Roger Harvey and Phil Beavers attended the council meeting.

In her email of 27.1.16, RD states that at a Council meeting on 26.1.16 Councillor Hennessey inappropriately stated that she was the legal expert and she explained that she was not and was told to 'shut up'.

Councillor Hennessey's Evidence

8.12.15

In his telephone conversations CH stated that his evidence is in his statement to the police. His email to Roger Harvey, former Monitoring officer, of 8.12.15 (23:09) details that:

- He asked AF to leave the room prior to the council meeting starting as a Community Group meeting was to happen as usual. AF refused as she said the JS had said that people could come in earlier. CH said he would speak to JS.
- JS told CH he should have not let them in without telling the Community Group.
- As CH returned to the room SD came in and CH told her she was not allowed in as the Community Group were having their usual pre meeting. 'She tried to push by me and I tried to stop her, but with her weight she passed me, she said I am phoning the Police'
- There was a knock on the door, as CH locked it, it was MH, he was kicking the door down, and so CH let him in. MH threatened CH saying "don't ever lock the door on me again".

There is no reference to a back injury at this point by CH (this was first mentioned in his formal complaint of 6.2.16) nor to RD being outside.

This email was treated by Roger Harvey as an account of an incident that had occurred that night. It was not presented to the Monitoring Officer as a complaint. CH gave no indication in the contents of the email that he wished this to be considered as a formal complaint under the Code of Conduct against a councillor. If he had requested this in the email, a formal Complaint form would have been sent to him. The email outlined the ongoing tensions that the Monitoring officer and Independent Person were aware of. CH, since being notified of the complaint against him, believes this should have been dealt with as a formal complaint.

In his email to Roger Harvey of 10.2.16 CH details that 'after making my statement the Police Officer stated it was obvious that SD had caused this trouble, and they would be speaking to her' and states; 'with reference to the assault SD made on me, injuring my back'.

Following the notification to CH by letter on 29.1.16, a formal complaint by him against SD was sent on 6.2.16. Roger Harvey responded on 9.2.16. CH provides little detail in the complaint, aside from:

- 'Susan Durant assaulted me causing injury to my back after being asked to leave a private meeting'.
- Any information is available from the PC Louise Briars.
- 'I cannot comment more on this incident as I may be taking legal action for injury received'.

Councillor Houlbrook's Evidence

Councillor Houlbrook has been a Parish Councillor since 2011 and a Ward Councillor since 2014. When MH entered the Town Council building on 8.12.15 CH was in the doorway and slammed the door straight in MH's face- stating "you are not coming in here, it is booked for the Community meeting". MH was not aware that SD was in the room and went to speak to JS. He then returned to the room and expressed his dissatisfaction to CH about not being allowed to enter. CH retorted 'what are you going to do about it?' SD told MH to sit down with her and he understood that the police were called. He recounted a number of incidents concerning CH behaviour involving Face Book posts about a car crash, items from the café being removed, threats to a shop owner, and issues over the allotments and CH's general antagonism on social media. MH stated that CH is very aggressive. MH accepts that things have been difficult since the 2015 elections but that what is important are people's lives and not the issues which CH personalises.

The Clerk's Evidence

Jeremy Sherlock has been Thorne Moorends Town Clerk since 2011. He did concede that there was poor behaviour on both sides of the Council. After 3 months since the political shift following the elections, there was inappropriate behaviour and the Monitoring Officer Roger Harvey tried to resolve this informally; though they accepted what Roger told them the behaviours continued. JS was aware of tensions and has tried to remain neutral but cannot police the situation. JS had also been aware of the previous food bank closure, though he was on holiday at the time.

JS was aware of Councillor Hennessey's Facebook comments following a car crash. Councillor Hennessey is also very conscious of health and safety and raises these issues.

Jeremy Sherlock was present for some of the 8.12.16 incident and considers that Councillor Hennessey's behaviour was a significant breach of the Code. JS had agreed that for the 8.12.16 meeting concerning the Winning Post the meeting room could be opened up for members of the public; as a large number were expected to attend. An alternative room would be available if the Community Group wished to have their pre-meeting. AF had approached him before the meeting and he had told her she could go into the room. CH had then come into JS's room asking him to remove the public from the meeting room. JS explained why it was sensible that they were let in early and that an alternative room was available for the pre meeting. JS followed CH to the meeting room. JS explained that the table covered much of the room and the gap between the table and wall was not significant, only 1 person wide. AF was seated and SD was close by. CH was gesticulating and a dialogue was ongoing. SD tried to get past CH to reach her mum and he physically grabbed hold of her arms and used an element of force to obstruct her; SD could not get around, it was inappropriate. JS put his head in his hands at this point and SD told him he should call the police. JS did not as he did not believe that the Police would consider it a crime. JS returned to his office. JS does feel he is not there to police the Councillors but to serve them, not control them. There is clearly a history but CH's behaviour was inappropriate. JS is careful to remain neutral though to avoid accusations of bias. He considers both sides entrenched in their position and has not made progress with peace brokering.

Police Investigation

I contacted PC Louise Briars following Councillor Hennessey's request. Despite a number of attempts I was unable to speak to her on the telephone though she did return my emails, which are at Appendix B. She referred me to the Legal Department to obtain the CH interview. She did state in the email correspondence 'Just to clarify that Susan Durant was not at fault, but I will discuss that with you on Thursday'. I did not get to speak with PC Briars. I understand from speaking to the parties involved that no criminal matter was investigated as it was not in the interests of justice.

I wrote to the SYP legal services on 18th March 2016 and they responded on 21st March 2016 detailing what would be needed to request the statement.

Consideration of disputed facts

In making the decision on disputed facts I have considered why there is a disparity between recollections.

- Collusion
Councillor Hennessey states that Sharon's complaint was encouraged by Councillor Durant. Mrs Foster's complaint arrived before Councillor Durant's complaint. Mrs Foster did state she had spoken to Councillor Durant about Councillor Hennessey's behaviour and what she can do but it was Mrs

Foster's own decision to fill in the complaint form. Clearly Councillor Durant's mum and daughter may support and encourage each other but I found no evidence of deliberate collusion. In addition the Clerk's and Councillor Houlbrook's evidence did agree with what I had been told by the other witnesses. Councillor Hennessey was asked if there were any people he would suggest should be interviewed but he did not name anyone.

- **Raised passions at meeting**

The meeting of 8.12.15 was a difficult one with the likelihood that the decision supported by the Community Group to sell The Winning post would be overturned and no doubt Councillor tensions among the Community party were raised, particularly as two of its members resigned during the meeting, over the decision. It is accepted that Councillor Hennessey may not have initially known that the meeting room would be open to the public beforehand and this again would have caused some tension when he was expecting a pre-meeting in there. He was however told by the Clerk of the reasons for the room being available to the public but continued to object. These raised emotions may be partly why Councillor Hennessey's recollection is different to the others.

- **Political situation and past history**

The past animosity between the Labour Party and the Community group and particularly Councillor Hennessey and Councillor Durant and her family create some tensions. It seems both sides are entrenched in this animosity. Those I spoke to suggested that Councillor Hennessey finds it difficult to forget past grievances and does not deal well with accepting alternatives to his own position on matters.

Conclusion

Items from cafe

Councillor Hennessey did not have permission to remove the items for the Council store room located at the café. He was told to return them by the Clerk once the Clerk was notified of this. He chose to take them to Sharon Foster. He informed the Clerk she had accepted them. His initial aim may have been to obtain the items for the Food Bank but on being told to return them decided he would instead take the items to Sharon Foster. His behaviour, as detailed by Sharon, on the morning of 22.11.15 was hostile and intimidating. He repeatedly referred to his Councillor status; he shouted and was aggressive to her outside of her home.

I find that:

- Councillor Hennessey did act inappropriately in removing goods from the storeroom and then acted inappropriately and aggressively in returning them to Sharon Foster's home instead of the storeroom as instructed to by the Clerk.

8.12.15

Councillor Hennessey was told on the evening of 8.12.15 by the Clerk that the room had been opened early for members of the public. He still continued to tell Annie Farrand to leave and was aggressive to her. He did not allow Councillor Durant to join her mother in the room but grabbed her by her forearms and held her. There was little space between the desk and the wall at the point where Councillor Durant wished to pass to reach her mother but Councillor Hennessey should have stepped out of the way rather than preventing Councillor Durant passing him. He also tried to prevent entrance or exit to the room.

I find that:

- Councillor Hennessey acted aggressively in speaking to Annie Farrand, he did physically hold Councillor Durant and barred access or exit to the room.

I am also required to consider any aggravating or mitigating circumstances

Mitigation/Aggravating factors

- The animosity between both sides and particularly Councillor Hennessey and Councillor Durant and her family, with the history of the Food Bank closing and the change in political power in 2015 elections provides background to the situation within the Council but does not provide a reason for Councillor Hennessey's behaviour.
- Councillor Hennessey is portrayed by all I interviewed as a strong character who does not like people disagreeing with him. He can be aggressive and intimidating and appears to use Facebook as a way of expressing his concerns.
- There were heightened emotions on 8.12.15 throughout the community, reflected in the number of the public who came to save The Winning Post from being sold. Councillor Hennessey had been in favour of the sale, and two of the Community group had resigned from it due to this decision so clearly Councillor Hennessey may have felt defensive and under attack before arriving at the meeting.

5. Summary of material facts

Councillor Hennessey removed items from the café store room when he did not have permission to do so. He was instructed to return the items by the Town Clerk to the store which he did not do. Councillor Hennessey visited Sharon Foster to return them and inappropriately spoke to her, embarrassing her in front of her granddaughter and her neighbours.

Councillor Hennessey was informed on the evening of 8.12.15 that the meeting room would be available before the meeting for members of the public. He spoke in a harsh and inappropriate manner to Annie Farrand. He prevented Councillor Durant from passing him. He grabbed Councillor Durant by her arms to prevent her getting past. He tried to prevent entrance or exit to the room and did attempt to close the door on Councillor Houlbrook and Rachel Durant.

6. Reasoning as to whether there has been failure to comply with the Code of Conduct

Previous guidance from the now disbanded Standards Board provided that a very clear line has to be drawn between the Code of Conduct's requirement of respect for others, including members of the Authority with opposing views, and the freedom to disagree with the views and opinions of others. In a democracy, members of public bodies should be able to express disagreement publically with each other. Allegations of simple name-calling, political point-scoring or mild rude and inappropriate language are something that the Monitoring Officer considers should be addressed by local resolution. However, where behaviour becomes abusive, malicious, persistent, disruptive, accompanied by threats of violence, or if a member abuses officers or members of the public who do not have the same platform to defend themselves as Councillors do, further action is required.. The public should not be expected to put up with such behaviour from their representatives.

Councillor Hennessey has behaved in such a way that a reasonable person would regard as disrespectful.

- His behaviour toward Sharon Foster in his method of returning the goods to her was disrespectful.
- His aggression and use of language towards Annie Farrand on 8.12.15 was disrespectful.
- His actions towards Councillor Durant were very disrespectful as it can never be appropriate to physically hold and restrain another person in these circumstances.
- His behaviour in preventing access and exit to the room was also disrespectful.

Councillor Hennessey has acted in a way which a reasonable person would regard as bullying or intimidatory.

- His behaviour towards Sharon Foster on 22.11.15 was bullying and intimidatory.
- His behaviour before the meeting on 8.12.15 towards Annie Farrand and Councillor Durant was bullying and intimidatory.

- His behaviour towards Rachel Durant and Councillor Houlbrook was intimidatory.

Councillor Hennessey has not used the resources of the Council in accordance with its requirements.

Councillor Hennessey should not have removed the café items. Councillor Hennessey acted inappropriately in removing property which did not belong to him and with no authority. He then did not return the goods from where he had taken them, as he had been instructed by the Clerk, but inappropriately returned them to the former cafe owner at her home and embarrassing her in doing so. The café items did belong to the Council.

7. Additional Submissions

As required by our procedures, I sent a draft report dated 15th April 2016 to the complainants and Councillor Hennessey and requested feedback. I received responses from Councillor Hennessey and Councillor Durant. Sharon Foster has emailed me but has not commented on the report. As a result of these comments I have made some amendments to my report and set out the key points below. The comments do not change the outcome of my report. An additional complaint was also received from a Lynn Ryan on 26th April 2016 and Councillor Hennessey's response to this was received on 29th April 2016. The two responses and complaint email and response are attached in Appendix 2.

Complaint from Lynn Ryan

During my investigation, an incident in the sweet shop was referred to by a number of those I interviewed. Despite suggestions that the sweet shop owner Lynn Ryan has complained, no record of this could be found. Lynn Ryan sent an email on 26th April 2016 to the Monitoring Officer outlining her complaint. It was decided not to ask for a formal complaint form to be submitted but to send a copy to Councillor Hennessey for his comments and to refer to the email in this report. This incident details Councillor Hennessey's alleged inappropriate behaviour towards a member of the public. The incident arose over Facebook comments and suggests Councillor Hennessey was unhappy with Lynn questioning him on Facebook and so visited her in her shop, shouted and was aggressive. The email is vague on the actual date and the actual Facebook comments but does corroborate behaviour that both Councillor Durant and Sharon Foster complain of. Councillor Hennessey validly raises the issue of the delay in this being reported to the Council as it occurred in May 2015. He also denies the behaviour that Lynn Ryan accused him of whilst inside the shop and states he did raise his voice outside the shop and did apologise later that day and assist her with her concerns. His admissions suggest that his initial reaction to conflict and opposition can be inappropriate.

Councillor Hennessey

Councillor Hennessey submitted 7 pages in response to the draft report.

- The café goods

CH accepts that JS did ask him to return the café goods (to the Council's garage store). At this point he accepts he has had the goods in his shed.

CH states that he received Councillor help in loading the equipment from the café but does not prove the details of their names.

CH states it was SF who was shouting not himself.

CH is not clear why he did not return the goods as the Clerk requested. His explanation for the Sunday was that he was busy at the food bank during the week and the store was closed at the weekend. .

CH accepts that SF did not want the equipment returned. He accepts she was upset but considers that it was not due to his behaviour but for other reasons.

8.12.15

CH states that the Clerk only told him after the incident with SD of the agreed arrangements with the room.

CH does state that AF did say to him 'don't touch me' corroborating that she considered CH was about to remove her from the room physically and her response made him stop; he states: 'I did then feel sorry for Anne and turned around'. He denies using bad language towards her.

CH does not accept that SD was trying to reach her Mother AF when the incident occurred. CH states that SD ' barged into me and CH's response was 'self-defence'. 'I defended myself by raising my arms to defend myself "putting my hands up to stop me falling'. CH does accept he held SD 'Jeremy Sherlock saw me holding SD, because I was defending myself from SD who had barged into me, SD made contact with me, if SD had not barged into me I would not have touched her at all'. . CH states that CH did injure his back.

CH accepts he locked the door to prevent access to the room. He denies being disrespectful in preventing access.

CH believes that the fact that the police are not taking action proves there was no assault.

CH states:: 'My behaviour before the meeting was of shock SD had pulled by asking to use the room at 6pm knowing the Community Group would come at 6.30 and I believe this was done again to solely cause trouble'.

Councillor Hennessey's response makes a number of complaints concerning SD, alleging that she was responsible for matters;-

- SD only wanted the room opened to the public to stop the pre meeting;
- SD encouraged SF to make the complaint ' as she has used her friends to make complaints previously'; '
- Susan Durant has deliberately caused the incident knowing the community group meet in the chamber before a council meeting';
- 'Councillor Durant has on many occasions, by bringing her friends to the council to disrupt the proceedings and barrack me and blacken my name';'

- With regard to the closure of the food bank and AF 'Annie Farrand should not have interfered it was nothing to do with her, it was her Daughters idea';

CH refers to his email to Roger Harvey of 8.12.15 referring to the incident that had just occurred. CH considers this should have been treated as a formal complaint. The reasons this was not treated as a formal complaint is detailed at p15 (Councillor Hennessey's evidence).

Conclusion regarding additional submissions from CH

Café incident: Councillor Hennessey states that he could only return the goods at the weekend and, as the store room was not accessible then, he delivered them to Sharon Foster's home. Once instructed by the clerk, Councillor Hennessey should have made returning the goods a priority. The food bank is open only on a Wednesday morning and it is not accepted that in the working week there was not time for him to make the return arrangements.

8.12.15: The clerk states that he told CH that members of the public were allowed in early to the meeting room on the evening when CH came to see him on finding AF in the room. The incident with SD occurred after this. I conclude that CH was told of the room arrangements before the incident but still chose to act as he did in demanding AF and SD leave the room.

CH's account is different to SD's, AF's and the Clerk's evidence. Their evidence is that CH grabbed SD as she passed him. On the balance of probabilities, with the corroborating evidence of three people including the Clerk I accept Susan Durant's account rather than CH only defending himself.

Councillor Hennessey's response shows that he perceives that the complaints made are a conspiracy against him and he accepts no blame but accuses others instead. His blaming of Councillor Durant repeatedly for a number of matters does suggest a level of personal animosity and ill feeling directly against her; it appears to have reached the level in which any actions he blames on her personally.

His response does show that he responds to complaints by defending his own behaviour and attacking those that have complained. He is unable to accept any level of criticism or blame but justifies it due to others behaviour

Councillor Hennessey does not show any remorse or contrition for the behaviour that has led to these complaints. He is keen to justify and excuse his behaviour. The two incidents and recent complaint show that he is quick to lose patience with people and act in an aggressive manner, particularly in situations where people are disagreeing with him.

Councillor Durant

Councillor Durant comments that

- It was due to the behaviour of CH and the community party that Roger Harvey and Phil Beavers attend the meeting in October
- 'It is unfair to suggest that 'our family' and CH are embroiled in dispute; it has always only ever been one sided. CH repeatedly tries to instigate arguments either on Facebook or at meetings. We've done our best to ignore him and have never engaged with him on Facebook therefore it would not be right to imply this. CH is the one that has a vendetta and is not open to reason with reference his behaviour and targeting Annie (Farand), Joe (Blackham – DMBC Councillor) and I. However the constant reference to family has a far wider reach and consequence and I believe that this is also harassment, bullying and intimidation of a family, their good name and character. It must be clear that this person is the sole instigator, and the person making these attacks'.

Conclusion

Councillor Hennessey is particularly aggressive towards the Durant family, however from the clerk and Councillor Hennessey's evidence there is some responsibility for poor relationships from the other councillors. I do consider Jeremy's Sherlock's evidence pertinent to his as he states both sides had not behaved well. . It is accepted that interparty relationships are strained but this does not excuse Councillor Hennessey's behaviour. I have therefore not amended my report with regard to this.

8. Finding

My finding is that there has been a failure by Councillor Hennessey to comply with the Code of Conduct of the authority concerned in relation to the following obligations of the Code.

8.1 He/she shall behave in such a way that a reasonable person would regard as respectful.

This is in regard to the incidents on 8.12.15 and café items matters.

8.2 He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

This is in regard to the incidents on 8.12.15 and café items matters.

8.3 He/she shall use the resources of the Council in accordance with its requirements.

This is in regard to the incident concerning the café item matters.

List of Background Papers

Key Documents

1. DMBC arrangements for handling complaints regarding allegations of member misconduct.
2. Thorne-Moorends Town Council Code of Conduct

Schedule of evidence taken into account

1. Formal Complaint by Sharon Foster
2. Formal complaint by Councillor Durant
3. Thorne-Moorend Town Council Social Media Policy (approved 9.6.15)
4. List of Thorne Moorend Town Councillors
5. Updates from Thorne-Moorends Town Council website on winning post
6. CouncilMinutes:AGM19/5/16;9.6.15;14.7.15;1.9.15;13.10.15;3.11.15;8.12.15;26.1.16;8.3.16.
7. 8.12.15 Email from Cllr Hennessey to Roger Harvey.
8. 10.12.15 to 1.3.16 Emails from Rachel Durant re incident on 8.12.15 Letters/Calls during investigation
9. 29.1.16 Letter Scott Fawcus to Cllr Hennessey
10. 6.2.16 Councillor Hennessey's code of conduct complaint
11. 9.2.16 Letter to Cllr Hennessey from Roger Harvey
12. 16.2.16 Letter to Cllr Hennessey from Helen Potts
13. 19.2.16 Telephone note Helen Potts with Councillor Hennessey
14. 2.3.16 Letter Helen Potts to Councillor Hennessey
15. 15.3.16 Letter Helen Potts to Councillor Hennessey
16. 17.3.16 Letter Scott Fawcus to Councillor Hennessey
17. 18.3.16 Telephone Note Helen Potts with Councillor Hennessey
18. 21.3.16 Email from Councillor Hennessey to Scott Fawcus.
19. Email correspondence Helen Potts with P. C. Briars.
20. 18.3.16 Letter from Helen Potts to South Yorkshire Police Legal Department
21. 21.3.16 Letter from SY Police to Helen Potts

Interview Notes

22. Councillor Susan Durant
23. Annie Farrand
24. Jeremy Sherlock
25. Rachel Durant

26. Councillor Mark Houlbrook
27. Sharon Foster
28. Additional submissions from Councillor Hennessey
29. Additional submissions from Councillor Durant
30. Email from Lynn Ryan re sweet shop incident