

Date: 19<sup>th</sup> May 2023



**Private and Confidential**

Mr Ian Barkley  
By Hand

Nasir Dad  
Director of Environment  
Place & Economic Growth  
Civic Centre  
Oldham

Dear Mr Barkley,

**Re: Disciplinary Hearing Outcome**

I am writing to confirm the outcome of the disciplinary hearing which took place on Thursday 11 May 2023. I chaired the hearing and Kathryn Pickford, HR Advisory Team Leader, was present in an advisory capacity. The management case was presented by Margaret Warburton-Vaughan, Investigating Officer, supported by Julie Kippax, HR Advisor. You were unaccompanied and confirmed that you were happy to continue. Hayley Cassell, Senior HR Adviser, was also present to take notes.

The hearing was convened for you to answer the following allegations of gross misconduct:

- You have demonstrated unacceptable attitudes towards other staff on the team and within management.
- You have not followed management instructions in a timely manner.
- Bullying and Harassment against two members of staff resulting in two grievances being submitted, one from Kelsey Barnes and the other Sophie Harland.

At the hearing, I was presented with the management case which was supported by the evidence pack supplied to you prior to the hearing. As part of their case, management called the following witnesses to respond to questions during the hearing: Ben Simmons, Kirsty Littlewood (via Teams), Lisa Entwistle, Sophie Harland and Kelsey Barnes. You had provided a statement in advance of the hearing along with several character witness statements, but you didn't call any witnesses to attend in support of your case.

In the hearing, it had been made clear that you weren't suspended from work during the investigation which commenced in August 2022. However, following a breakdown in the relationship between you and your manager, you were moved to work in the Business Strategy Team from November 2022, and have remained working there to date.

The management case explained that there is a theme of unacceptable behaviour from you in relation to you being disruptive, uncooperative, disrespectful and undermining management

decisions, challenging colleagues in an inappropriate manner, behaving in a way that is contrary to the council's values and behaviours and failing to follow reasonable instruction on a number of occasions. The report presents evidence of a pattern of unacceptable behaviours, along with an inability to follow management instructions. Despite the concerns being raised by various managers over a number of years, there has been a failure to improve. The report also presents, and you confirmed, that you were frustrated about being placed in a team where you feel your strengths do not lie.

Management evidence demonstrated that concerns in relation to your behaviour and conduct have been raised in the past, and these concerns had been addressed via letters of concern dated 28 March 2017 and 10 April 2019, followed by a disciplinary investigation in February 2020 which also resulted in a letter of concern dated 17 March 2020. Whilst you have no 'live' warnings on file, it is important that this history is considered in the context of the current, similar allegations.

The evidence detailed many examples of when you have failed to follow management instruction in a timely manner, or at all, in some cases. The key evidence includes:

- You prioritised work for the Brokerage Team over your roles and responsibilities in the Client Finance Team. In mitigation, you stated you didn't have access to the system you required to do client finance work. However, it was confirmed in the hearing that there was other work to do, which you confirmed, but it came across that you were choosing not to as you preferred brokerage work. Despite repeated management instructions not to do brokerage work you continued.
- By prioritising work for the Brokerage Team this meant that requests coming to you directly were completed before those in the 'inbox'. This meant that service for some residents was completed quicker as it came to you directly and others could be waiting a significant period of time. You're only explanation for this act was that you were 'being helpful' and took the 'one council' approach. When I explained that this meant some people were circumventing the system, you were unable to counter this point. You also accepted that doing this work meant you were not completing your Client Finance related work (your duties). This was contrary to management requests that you focus on your own role/work.
- Linked to the above concerns, in not undertaking work you were asked to do, this has resulted in financial loss to the council. You did state that you initially highlighted one problem. However, following this, in questions with Kirsty Littlewood when you were asked to support the solution to this, it resulted in further financial loss when you failed to complete the work assigned to you.
- You completely refused to follow the reasonable management instruction to complete your calendar with the work you are doing. In questioning, you explained you don't see why this should be done and it was micromanagement. This is a reasonable management instruction and the rest of the team comply with this.
- You had closed off notes on mosaic with no follow up which led to queries coming to the team that couldn't be answered. There was a particular closure of a record that you did which you explained was due to a deceased client. You explained you hadn't made contact as you were allowing the 'dust to settle'. You closed this off without any notes

and when this was discussed during the hearing, Sophie Harland confirmed the client had contacted the Council following the death so they had initiated the contact. This was only one example of several and you were reminded in supervisions to update Mosaic appropriately which you again failed to do. Management are concerned that this presents a reputational risk to the council.

- Not registering for the DBS update service and undertaking mandatory training despite repeated reminders evidenced in several of your supervision records. You cited problems with the links to the websites. However, despite your manager requesting you to follow this up with the relevant teams you failed to do this.
- You failed to generate invoices for client payments with low amounts as you did not feel the amount requested justified officer time and resources being spent on creating the invoice. You were unable to provide a reasonable explanation for this during the meeting, other than to state that this would be identified and written off at the 'debtor management stage'. However, this lack of action meant that there would be no debtor check identification and could have a reputational impact on the Council if future requests for payments increased for the residents. This also meant that the council didn't recover monies that it was owed.

In relation to the evidence in the pack relating to the grievances and allegations of bullying, I do consider there is some evidence in the pack to suggest that your treatment of Kelsey could be perceived as bullying. Examples were provided of belittling her in front of colleagues and giving her incorrect information when help was requested. You stated that if you knew how she'd felt you could have addressed this. However, I believe there is sufficient evidence within the pack to show that management tried to address your conduct towards others with you on numerous occasions. This was in both management conversations with Lisa Entwistle and supervisions with Sophie Harland which were either followed up by email or documented in supervision notes.

You could offer no explanation or mitigation for your actions apart from to explain that this is who you are and this is how you work. This gave me serious concerns about your values and behaviours and the evidence in the pack demonstrates a recurring theme of similar concerns raised with you dating back to 2019. I had no confidence from your responses during the hearing that there would be any improvement in your conduct. The pack provided evidence of several chances of informal warnings and managements conversations for you to improve your conduct and this has so far not been sustained for any significant period of time. There was one period of improvement cited within the evidence of 4 weeks and as soon as that monitoring period ended, within a matter of days, there was a further conversation about concerns with your conduct which ultimately led to this investigation.

In your submission, you explained that the restructure had caused you to feel stressed. Management had done a referral to occupational health and this advised a stress risk assessment, which you had also requested directly. You claimed that this hadn't been done, however, you had chosen not to engage with this process, initially stating that you felt nothing would improve. You also questioned why a different manager hadn't done this with you but you hadn't requested this. Further to this, in the hearing, you stated you knew how to manage your own stress following training and work you had done as part of your military service.

You had also queried why meditation recommended by Occupational Health hadn't been done but it was established that this wasn't in the occupational health report. Despite having received a copy of the report you didn't have this amended or raise with management that this had been recommended.

You did point to the fact that following the previous disciplinary action in March 2020, the outcome letter recommended a performance improvement plan and further training. I note that you stated these weren't done and there was no evidence provided in the pack to confirm otherwise. However, it is clearly documented and evidenced that over time with various managers, you were spoken to about the inappropriateness of your conduct with colleagues and your repeated failure to follow reasonable management instructions.

In your written submission, you expressed some concerns about the nature of the investigation and specifically why a more balanced view of your character outside the structure had not been sought. I have noted your concerns in this regard and, whilst I did consider requesting that the Investigating Officer carry out further investigation, following consideration of the evidence from both the investigation and the hearing, I ultimately concluded that, given the serious nature of some of the allegations against you, this would not materially change the outcome of this case.

You also noted that the grievance had been substantiated without the hearing taking place as stated in the management report, and that this should be decided at the hearing, and not by the investigating officer. I acknowledged your concerns and noted this during the hearing, and I would like to take this opportunity to reassure you, as I did in the hearing, that I have taken a great deal of time to consider each allegation and the case as a whole in order to form my own opinion on this matter.

Given the evidence provided which shows a pattern of this conduct dating back to 2019, and the ongoing and persistent repeat of an unacceptable attitude, I consider the first allegation to be proven.

As you could provide no satisfactory explanation as to why you repeatedly fail to follow management instructions, I also find the second allegation proven.

There is some evidence that your treatment of Kelsey could be perceived as bullying. In relation to Sophie, I could find no evidence of bullying but as found with the other 2 allegations, there was disregard and disrespect for management which had a serious impact on Sophie's health. There was no evidence of any harassment. Therefore, I find this third allegation only partially proven.

In conclusion, I find the first two allegations are wholly proven and serious enough to warrant gross misconduct. In accordance with the policy, I did consider action short of dismissal and potential redeployment. However, due to the pattern of this repeat behaviour over a period of years with different managers and no improvement, with no assurance from you that this would change, I feel I have no alternative but to summarily dismiss you from your role with immediate effect. Therefore, your last working day is Friday 19 May 2023.

You have a right of appeal against my decision and, should you wish to exercise this right, please notify me via email or letter within 10 working days of receipt of this letter detailing the grounds of your appeal.

I would like to take this opportunity to remind you that the Employee Assistance Programme is available for you to access on 0800 882 4102 for up to 3 months from the date of your dismissal.

Yours Sincerely

Nasir Dad  
Director of Environment  
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