

DECISION NOTICE: NO BREACH

Reference COC128187

Subject Member

Cllr Peter Gantlett, Clyffe Pypard Parish Council (Represented by Andrew Fraser-Urquhart QC)

Complainant

Chris Rickett

Investigating Officer

Emma Holliday (Represented by Frank Cain, Barrister)

Representative of the Monitoring Officer

Paul Barnett
(supported by Kieran Elliott, Senior Democratic Services Officer)

Independent Person

Caroline Baynes

Hearing Sub-Committee

Cllr Fleur de Rhé-Phillipe MBE (Chairman)
Cllr Trevor Carbin
Cllr Peter Fuller
Philip Gill MBE (non-voting)

Decision Date

7 April 2021

Issue Date

21 April 2021

Complaint

The allegation concerned accusations that the Subject Member in his dealings with the Complainant in relation to the Neighbourhood Plan Steering Group had been verbally

aggressive and rude to her in the ways set out in detail in the complaint. The Complainant refers to a number of incidents since she became a member of the Steering Group a number of years ago and continuing until the time of the complaint, where she says that the Subject Member had belittled her and engaged in other behaviour that she believed amounted to bullying.

It was alleged that this behaviour amounted to a breach of the Parish Council Code of Conduct in respect of the following provisions:

- *He/she shall behave in such a way that a reasonable person would regard as respectful.*
- *He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory*

Meeting

The Sub-Committee met as an online meeting on 7 April 2021 to hear the complaint.

A Chairman was elected for the meeting and there was opportunity for any declarations from the Sub-Committee members before the procedure for the meeting was noted and introductions were made for all those present. It was then resolved to exclude the press and public from the remainder of the Hearing. The Chairman then provided further details of the process that would be followed for the hearing in accordance with Paragraph 8 of the Council's Arrangements for dealing with Code of Conduct Complaints, Protocol 11 of the Constitution, which had been circulated with the agenda papers.

Three bundles of documentation agreed by the legal representatives for the Investigating Officer and the Subject Member were referred to throughout the hearing, referencing relevant law, issues and possible agreed facts, and additional supporting evidence.

After hearing from the parties, their witnesses, and their representatives in accordance with the agreed procedure, including a statement from the Complainant, the Sub-Committee withdrew, together with the Independent Person, the representative of the Monitoring Officer, and other supporting officers.

The Independent Person was consulted throughout the process and her contributions were taken into account by the Sub-Committee in reaching their decision.

The Hearing was then resumed at the conclusion of deliberations, and the decision of the Sub-Committee was announced to the parties and their representatives.

Decision

Having considered all relevant matters, including the complaint, the Investigating Officer's report, the submissions made on both sides as detailed in the agenda papers and agreed supplementary documentation, testimony from witnesses, and the statement of the complainant, the Sub-Committee concluded the following:

From the submissions during the Hearing it was apparent that the Complainant felt genuine upset at a number of actions of the Subject Member over a period of time, and that some of the actions of the Subject Member had shown a degree of abruptness that had contributed to that upset felt by the Complainant.

However, the Sub-Committee considered on the balance of probabilities that the evidence presented did not support a finding that the actions of the Subject Member as viewed by a reasonable person had risen to the level of a breach of the Code of Conduct as a matter of bullying or disrespect.

The Hearing Sub-Committee therefore determined to take no further action in respect of the complaint.

Reasons for Decision

1. The complaint had arisen following an extended period of involvement between the parties in a Neighbourhood Plan Steering Group set up at the request of Clyffe Pypard Parish Council. The Subject Member was a Member of the Steering Group and Chairman of the Parish Council, but not Chairman of the Steering Group. The Complainant was a lay person appointed to the Steering Group as part of the process to help provide community input into development of a Neighbourhood Plan.
2. The Complainant had detailed concerns regarding the Subject Member's treatment of her as a matter of general conduct from the beginning of her involvement with the Steering Group. These concerns taken together with a series of other actions and behaviours had culminated in her belief that it was necessary to make a formal complaint.
3. Particulars of behaviours giving rise to the complaint had included allegations of disrespectful and belittling comments, and disregard of and supplanting of the work assigned to the Complainant as part of the Steering Group process. It was alleged that these behaviours rose to a level which would be a breach of the Clyffe Pypard Code of Conduct.
4. The Clyffe Pypard Code of Conduct included specific provisions relating to Members behaving in such a way that a reasonable person would regard as respectful, and not acting in such a way that a reasonable person would regard as bullying or intimidatory.
5. The documentation provided by the legal representatives submitted that respect could involve a pattern or course of conduct over time, and the complaint was submitted within the timescales provided by the Code of Conduct Complaints Procedure in relation to that alleged pattern. It was also submitted that the intention of the Subject Member was not relevant in determination of a breach as a result of disrespect, though may be relevant as to mitigation if a breach were found.
6. It was therefore for the Sub-Committee to consider the following issues:

Did the Subject Member by his demeanour, behaviour or actions whilst attending to steering group business/meetings show a pattern of behaviour towards the Complainant which a reasonable person would regard as not respectful?

Did the Subject Member by his demeanour, behaviour or actions whilst attending to steering group business/meetings show a pattern of behaviour towards the Complainant which a reasonable person would regard as bullying?

7. There was no question that the Complainant had, as a result of the demeanour, behaviour and actions of the Subject Member, sincerely felt disrespected and even bullied over the course of her involvement with the Steering Group. She had stated that as a result of the actions and behaviours which led to her making a complaint, she had changed her behaviour and input with the community, including involvement with the Steering Group.
8. The Subject Member maintained that there had been no pattern of disrespect or bullying, and that his long association with the parish council demonstrated adherence to appropriate behaviour in public office and as a member of the community. He disputed the account of the Complainant and her supporting witnesses and called a number of his own supporting witnesses for their account of specific incidents, to show he had not been bullying or disrespectful.
9. In considering the totality of the evidence as presented, including the witness testimonies and questioning, the Sub-Committee were not satisfied that there were sufficient grounds to consider that the behaviour of the Subject Member had risen to a level that could be considered bullying and which would amount to a breach of the Code of Conduct.
10. Although it recognised that some of the demeanour and conduct of the Subject Member had upset the Complainant, the Sub-Committee did not consider a reasonable person observing the pattern of behaviour would conclude this amounted to a campaign of bullying. Nor did they consider that any of the separate incidents or behaviours alleged were sufficiently egregious so as to amount to bullying if considered individually. This was particularly the case given that the evidence supporting the most significant allegations was contested and could not, in the view of the Sub-Committee, be proven to a satisfactory degree to warrant the finding of a breach.
11. The Sub-Committee considered that a stronger case had been made that the demeanour, behaviour and actions of the Subject Member, might amount to a level of disrespect that constituted a breach of the Code of Conduct.
12. Although the Subject Member strongly rejected that this had ever been his intention, the Sub-Committee could understand the conclusion of the Investigating Officer that his pattern of behaviour during the operation of the Steering Group had amounted to disrespect, given his style of communication and alleged unilateral actions, which some had described as difficult or rude. This was particularly relevant when considering the relative status of the parties, with the Complainant a lay member unfamiliar with parish council or committee-like processes, and the Subject Member a leading and experienced member of the parish council, very active in many local matters, who could be perceived as having an influence on how others should be treated.
13. Nevertheless, having considered the submissions made at the Hearing, including from witnesses in relation to some of the specific alleged incidents involving alleged shouting, denigration and the taking over of tasks and contrasting this with the interpretations of the Complainant, on balance of probabilities the Sub-Committee was not satisfied that it

was the case the Subject Member's behaviour demonstrated a wilful disrespect of the Complainant. Nor that taken together or individually the matters as alleged, though genuinely upsetting to the Complainant, had risen to a level whereby a reasonable person would regard those behaviours and actions as sufficient to merit a finding of disrespect.

14. Whilst not dismissing the genuine feelings of the Complainant, in considering the totality of evidence on the balance of probabilities in relation to the alleged pattern of behaviour and series of incidents, particularly the more serious allegations, the Sub-Committee therefore did not agree with the Investigating Officer's conclusion that the Subject Member, intentionally or otherwise, had behaved in a manner which rose to the level of a breach of the Code of Conduct as it amounted to respect.
15. Accordingly, with both issues of bullying and respect addressed, the Hearing Sub-Committee determined that no breach of the Code had taken place.

Additional Comments from the Independent Person

1. I wanted to acknowledge the time that the complaint took to be heard and the negative effect that has likely had on both parties. I know that these have been very trying circumstances and that the investigation was lengthy and that the delay has been unavoidable.
2. I am fully satisfied that the difficult case has had a full airing and that both parties had the opportunity to have their views heard.
3. Finally, I also wanted to acknowledge the contribution to community life that both parties have made and hope that this can continue now that the complaint has been concluded