

DECISION NOTICE: BREACH **Reference COC146700**

Subject Member

Cllr John Dalley, Rowde Parish Council

Complainant

Cllr Amanda Humphreys, Rowde Parish Council

Investigating Officer

Jed Matthews

Monitoring Officer

Perry Holmes

Independent Person

Pat Bunche

Hearing Sub-Committee

Cllr Trevor Carbin
Cllr Tamara Reay
Cllr Graham Wright

Decision Date

8 February 2024

Issue Date

13 February 2024

Complaint

It was alleged that:

1. On 12 June 2023 during an informal meeting of Rowde Parish Council, the Subject Member made inappropriate comments about the Complainant, referring to her as “your gobby missus” (a remark directed at the Complainants husband).
2. On 14 June 2023, during a Public meeting of the Parish Council, the Subject Member acted in loud and offensive manner.
3. On 18 and 19 June 2023 the Subject Member made inappropriate comments about the Complainant to other councillors on a Council WhatsApp group and to one other councillor in a WhatsApp message.

In doing so it was alleged that the Subject Member breached the following sections of the Rowde Parish Council Code of Conduct:

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.*

Meeting

1. The Hearing Sub-Committee ("The Sub-Committee") met on 8 February 2024 at the Council Chamber, County Hall, Trowbridge, to hear the complaint.
2. 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. After deliberation the Sub-Committee did not exclude the press or public from the remainder of the Hearing. The Chairman then briefly detailed 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.
3. The Complainant and the Subject Member were present at the Hearing.
4. At the Hearing the Investigating Officer presented their Report and confirmed that no witnesses would be called. In accordance with the procedure the Sub-Committee were invited to ask questions of the Investigating Officer to assist with their assessment of the complaint.
5. In accordance with the procedure the Sub-Committee received a verbal statement from the Complainant in support of their complaint.
6. In accordance with the procedure the Sub-Committee received a verbal statement from the Subject Member as evidence and to make representations as to why they consider that they did not fail to comply with the Code of Conduct.
7. In the statement, the Subject Member suggested that the complaint against him had arisen out of a disagreement between members of the Parish Council with regards to the handling of the playing fields and associated matters involving the use of a container as a changing room and of sourcing barriers for the playing field.
8. The Subject Member stated that historically, he had been solely responsible for all matters involving the playing field and as such believed that the other members of the Parish Council should not be involved in taking on any tasks, which he considered were within his remit.
9. The Subject Member set out examples of alleged poor behaviour from other members of the Parish Council, in order to highlight the breakdown between differing personalities, which he felt had led to the escalation of bad feeling against him by some of the members, who had specifically targeted him in an effort to paint him in a poor light within the community.

10. The Subject Member was reminded that the Hearing was in regard to the complaint against his actions as set out in the report and that any separate incidents should be logged separately through the Code of Conduct Complaints Process for consideration.
11. No witnesses were called by the Subject Member.
12. The Sub-Committee then withdrew into private session, together with the Independent Person, the Monitoring Officer, and other supporting officers.
13. The Independent Person was consulted throughout the process and their contributions were taken into account by the Sub-Committee in reaching their decision.
14. The Hearing resumed at the conclusion of deliberations, and the decision of the Sub-Committee was announced to the parties and their representatives as follows:

Decision

Having considered all relevant matters and evidence, including the complaint, the Investigating Officer's report, the submissions made by the parties as detailed in the agenda papers and in verbal statements during the Hearing, the Sub-Committee concluded on the balance of probabilities that Councillor John Dalley of Rowde Parish Council breached the Parish Council's Code of Conduct under the following provisions:

Paragraph 1 - He/she shall behave in such a way that a reasonable person would regard as respectful.

Paragraph 2 - He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

Sanctions:

The Sub-Committee agreed the following Sanctions be recommended to Rowde Parish Council:

- 1. *To recommend the Censure of Cllr John Dalley***
- 2. *To recommend the Hearing Sub-Committee minutes regarding COC146700 be published for information on the next Parish Council meeting agenda.***

In addition, the following advisory notes were agreed:

- a) *That Rowde Parish Council considers setting up an amenity committee and forms other sub-committees for specific areas of responsibility when required.***
- b) *That Rowde Parish Council considers the adoption of a model where a due process moving forward involves the clerk taking on such actions as the***

acquisition of quotes for future expenditure/works, which could be brought back to future Parish Council meetings for consideration in public.

- c) *That Rowde Parish Council considers inviting all its members to undertake training on, the code of conduct, and meeting etiquette.***

Reasons for Decision

Background

1. The Subject Member and the Complainant are both elected members of Rowde Parish Council.
2. The Subject Member in his role as a Councillor has signed a declaration in agreement to abide by the Rowde Parish Council Code of Conduct.
3. The Code does not provide a definition of bullying. For the purposes of Hearing, the Sub-Committee considered the following definition of bullying provided by the Advisory, Conciliation and Arbitration Service (ACAS):

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

4. The Code does not provide a definition of respect. For the purposes of Hearing, reference was made to the guidance on respect provided by the Local Government Association, which accompanies its Model Code of Conduct and includes the following definition:

“Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.”

“In a local government context this [i.e. respect] can mean using appropriate language in meetings and written communications, allowing others time to speak without interruption during debates, focusing any criticism or challenge on ideas and policies rather than personalities or personal attributes and recognising the contribution of others to projects.”

“Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion.”

5. 12 June 2023 – Informal Meeting

Members of the Council met to discuss the parish playing field. This informal meeting was not open to the public, and no minutes were recorded. Members in attendance agreed to gather further information to present to the next formal meeting of the Council on 14 June 2023.

6. It is alleged by the Complainant, that during the informal meeting, the Subject Member made inappropriate comments about her, referring to her as “your gobby missus” (a remark directed at the Complainants husband).
7. The Subject Member confirmed that at the informal meeting on 12 June 2023 there was a disagreement but stated that it was settled during the meeting. During the Hearing the Subject Member refutes using the term ‘gobby’.
8. 14 June 2023 – Council Meeting
At the public formal meeting, the Council discussed the matter of the changing rooms for the playing field further, during which the Subject Member altered his previous position, deciding that he wished to seek further clarification on one of the quotes. Following this, the Council resolved that three quotations would be put before the Council and voted on at its meeting in July.
9. The Complainant alleged that the Subject Member disrupted the meeting of the Council by shouting and finger pointing and acting in a loud and offensive manner.
10. 15 June 2023
The Complainant offered her resignation to the Chairman of the Council and closed a WhatsApp group for Council members for which she was the administrator. A new WhatsApp group was then set up by another member without the Complainant in its membership. The Complainants resignation was not accepted by the Chairman and she remains a member of the Council.
11. WhatsApp Messages
In WhatsApp messages sent between 18 – 19 June 2023 by the Subject Member, to another member of the Parish Council, he refers to the Complainant as “wicked, evil heinous” and “a nasty evil bitch who was trying to take over the parish council”.
12. The Subject Member in his initial response did not deny sending the messages, noting that they were not made in a public forum.
13. The Subject Member stated to the Investigating Officer that he had never received any formal training on communications or the use of social media since becoming a Parish Councillor.
14. Acting in a capacity as a Councillor
In order for there to be a finding that the Subject Member was in breach of the Parish Council Code of Conduct it was necessary to establish whether the Code applied during the time of the alleged behaviour of the Subject Member.
15. The Sub-Committee noted the following from the Rowde Parish Council’s Code of Conduct:

Pursuant to section 27 of the Localism Act 2011, Rowde Parish Council (‘the

Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed, or when they claim to act or give the impression of acting as a representative of the Council.

16. The Sub-Committee agreed that the Subject Member was acting in his capacity as an elected Member during his attendance at the informal meeting held on 12 June 2023, at the Parish Council meeting on 14 June 2023 and during his interactions on the WhatsApp group chat and his message to another councillor during 18 to 19 June 2023. Accordingly, the Sub-Committee was satisfied the Code was in effect.

Conclusions

17. Although the accounts of what was said at the informal meeting differ, the Sub-Committee noted that all of the statements concurred that there was a disagreement between the Subject Member and the Complainant and her husband, and that the Subject Member had referred to the Complainant in a way that portrayed her as an extension of her husband rather than as an individual.
18. The Sub-Committee considered the audio recording of the public Parish Council meeting held on 14 June 2023 and agreed that whilst it appeared a somewhat chaotic meeting, despite there being little structure or control exercised by the Chairman, there was no clear evidence that the Subject Member had breached the code of conduct in his attempts to dominate the discussion on the matter of the changing rooms.
19. The Sub-Committee agreed that the Parish Council as a whole would benefit from some training on meeting etiquette, the role of the Chairman and the code of conduct to enable it to function more effectively in a positive manner moving forward.
20. The Sub-Committee considered the WhatsApp messages sent by the Subject Member on 18 and 19 June 2023, combined with the conduct on 12 June 2023 at the informal meeting did represent a pattern of behaviour that fell within the provided definitions of bullying as set out in the report.
21. On balance, the Sub-Committee was satisfied that the Subject Member had breached the following sections of the Rowde Parish Council Code of Conduct:
 - I. He/she shall behave in such a way that a reasonable person would regard as respectful.
 - II. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

Sanctions

1. The Sub-Committee sought the view of the Investigating Officer in relation to recommendation of any sanction. The Investigating Officer made no comment.
2. During the Hearing, the Subject Member was notified of the procedure for making representations on sanctions if the Sub-Committee found that a breach had taken place.

The Subject Member was given the opportunity to be contacted by telephone on the day of the Hearing to make any such representations.

3. The Sub-Committee withdrew once more into private session for deliberation and, after consulting the Independent Person and noting the comments of the Subject Member, resolved to recommend that Rowde Parish Council impose the sanctions as set out above, as a result of a breach of the Code of Conduct.