

DECISION NOTICE: BREACH **Reference COC126112**

Subject Member

John Tighe – formerly of Upavon Parish Council

Complainants

Emma and Neil Sheen

Investigating Officer

Marie Lindsay

Representative of the Monitoring Officer

Paul Barnett

(supported by Kieran Elliott, Senior Democratic Services Officer)

Independent Person

Mr Stuart Middleton

Hearing Sub-Committee

Cllr Ruth Hopkinson (Chairman)

Cllr Fred Westmoreland

Cllr Stuart Wheeler

Mr Richard Baxter (Co-opted non-voting member)

Decision Date

17 March 2021

Issue Date

19 March 2021

Complaint

The Complainants alleged that during a telephone call on 18 October 2019 Councillor Tighe was rude and bad tempered. They also alleged that Councillor Tighe attempted to bully and intimidate them by making the comment, 'you do not want to fall out with me you will regret it'.

In doing so it was alleged that Councillor Tighe had breached paragraphs 3 and 6 of the Upavon Parish Council Code of Conduct and had failed to live up to the general principles of selflessness, integrity, accountability, openness, honesty and leadership required by Upavon Parish Council and the public office he holds.

3. (1). *You must treat others with respect*
- (2)(b) *You must not bully any person*

(2)(c) You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant.

6. 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.

Meeting

The Sub-Committee met on 17 March 2021 to hear the complaint. Following introductions of those present, the Investigating Officer presented their report, and the outcomes of Review Sub-Committees on 10 December 2020 and 11 February 2021. These overturned the Monitoring Officer's recommendation of no further action following the investigation and confirmed that position following Mr Tighe's resignation from Upavon Parish Council in late December 2020.

The Sub-Committee noted that the complainants, Emma and Neil Sheen had been informed of the hearing and had been given the opportunity to attend. A statement previously provided to a Review Sub-Committee was read to the Sub-Committee as requested by the complainants in their absence.

Opportunity was provided to question the Investigating Officer.

The Subject Member, formerly Councillor John Tighe, had been informed of the hearing and had been given the opportunity to attend. A statement provided to the council from Mr Tighe was read to the Sub-Committee as requested by the Subject Member in his absence.

In the absence of the Subject Member and there being no further questions or comments, in accordance with the agreed procedure the Sub-Committee withdrew together with the Independent Person, representative of the Monitoring Officer and supporting officers.

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

Decision

Having considered all relevant matters, including the complaint, the Investigating Officer's report and evidence, the Monitoring Officer's comments and recommendation to that Investigation Report, the decision notices of the Review Sub-Committees, and the statements from the Complainants and the Subject Member, it was resolved that:

1. It was not disputed by either party that during a telephone conversation on 18 October 2019 then Councillor John Tighe stated to the Complainant '*you do not want to fall out with me you will regret it*'.
2. The Subject Member at the time was Chairman of Upavon Parish Council and the Sub-Committee considered that during the conversation on 18 March 2019 he had been acting in his capacity as a councillor.

3. Notwithstanding the differing accounts of the conversation, the Sub-Committee concluded that the facts and statement not in dispute amounted to a breach of paragraph 3 of the Upavon Parish Council Code of Conduct.
4. For a serving parish councillor available possible sanctions would include a formal censure, requesting a formal apology and suggesting consideration of the Member's position on the council. Given the Subject Member's resignation from the parish council and previously made expressions of apology, the Hearing Sub-Committee considered that it was not appropriate or proportionate to recommend any further sanction be upheld by the Parish Council.
5. Accordingly, the Hearing Sub-Committee determined that it be noted that it considered on the available evidence that a breach of the Code of Conduct had occurred, but that no further action be taken and that the matter was therefore concluded.

Reasons for Decision

1. The complaint had arisen following a telephone conversation in respect of access to parish council offices located at the old Upavon Primary School building, where the Wellyboots Nursery operated by the complainants is located. There had been ongoing discussions with the parish council and others regarding access to the site.
2. Whilst there had at times been expressions of regret from the Subject Member over his actions, which had taken place during a telephone conversation which had become heated, as is noted above it was not in dispute that the alleged comments had occurred. The comment that '*You do not want to fall out with me, you'll regret it*', as noted by the Review Sub-Committee on 10 December 2020, contain an implicit threat, particularly given the Subject Member's position at the time as Chairman of the Parish Council.
3. Such a threat, intentional or otherwise, whilst not conferring any disadvantage on the Complainants (and therefore not in breach of paragraph 6), was an extremely serious and unacceptable comment for any councillor to have made, especially a Chairman. It was therefore considered by the Hearing Sub-Committee to be a breach of paragraph 3 of the Code of Conduct, by not treating others with respect and being intimidating. It was also thought the nature of the comment by the Subject Member could amount to bullying.
4. The Hearing Sub-Committee carefully considered the comments of the Subject Member, previous apologies, and his resignation from the Parish Council. It noted that the Review Sub-Committee had considered the complaint sufficiently serious that it was required to be formally determined notwithstanding that resignation. The Hearing Sub-Committee accepted, on the basis of the evidence, that a breach of the Code had occurred; in offering some amount of previous apologies and having resigned it considered that the Subject Member had in effect met or exceeded any possible available sanctions which might be recommended to the Parish Council.
5. Accordingly, the Hearing Sub-Committee was satisfied that although they had determined a breach of the Code had taken place, it would not be appropriate to recommend any further sanction, and therefore considered the matter was now concluded.