

Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 24 AUGUST 2022 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Ernie Clark (Vice-Chairman), Cllr Trevor Carbin (Substitute), Cllr Derek Walters (Substitute), Gordon Ball and Julie Phillips (non-voting)

Also Present:

Tony Drew (Independent Person), Pat Bunche (Independent Person), Frank Cain (Head of Legal Services), Lisa Alexander (Senior Democratic Services Officer), Sarah Marshall (Principal Solicitor).

64 **Apologies**

Apologies were received from:

Cllr Gordon King - who was substituted by Cllr Trevor Carbin
Cllr Sam Pearce Kearney – who was substituted by Cllr Derek Walters
Cllr Richard Britton

65 **Minutes of the Previous Meeting**

The minutes of the meeting held on 20 July 2022 were presented for consideration, and it was,

Resolved:

To approve and sign the minutes as a true and correct record.

66 **Declarations of Interest**

There were no declarations.

67 **Meeting Procedure and Assessment Criteria**

The procedure and criteria were noted.

68 **Exclusion of the Public**

It was,

Resolved:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Minute Numbers 53 onwards, because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in Paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Paragraph 1 -information relating to an individual

69 **Assessment of Complaint: COC140291**

A complaint was submitted by Richard Culverhouse (the clerk) on the behalf of Heywood Parish Council (the Complainant), which related to the conduct of Councillor Frances Morland (the Subject Member) who is a member of Heywood Parish council.

Preamble

The Sub-Committee considered a request made in writing by the Subject Member to defer the consideration of the complaint and noted the guidance, as set out in the Meeting Procedure, paras 4.3 and 4.2 on pages 12 of the agenda pack and agreed to proceed with the assessment.

The Sub-Committee was satisfied that the initial tests of the assessment criteria had been met, in that the Subject Member was and remained a member of Heywood Parish Council and that a copy of the relevant Codes of Conduct had been provided for the assessment.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the Code of Conduct. If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, and the report of the Monitoring Officer.

Discussion

The complaint relates to allegations that the Subject Member had not fulfilled the actions which were agreed by way of an alternative resolution to three previous, linked complaints against him.

After receiving legal advice, the Sub-Committee noted that, if the allegations were proved, it would be difficult to establish on the balance of probabilities, that a breach had occurred for the following reasons:

- a) It would be hard to establish evidentially that the undertaking was given for or on behalf of either the Parish Council or for constituents.
- b) Therefore, there is a very high probability if the matter progressed that in law the undertakings given would be determined to be personal undertakings.
- c) In judicial or quasi- judicial processes any undertakings should be accompanied by identified sanctions/consequences for non-compliance rather than being subject to a further complaint.
- d) Alternative resolution was incorporated within the light touch model adopted by the Council with a view to resolution by concession rather than sanction.
- e) The original decision did not have any sanctions for non-compliance. This is consistent with the light touch process adopted.
- f) In respect of the three original complaints the Sub-committee had made a final determination of no future action based on the personal undertakings given and the expectation that the member would maintain an integrity in upholding the personal undertakings he had given.
- g) There is no justifiable legal basis for setting aside that earlier determination and obliging the Subject Member to face the original complaints without running the risk of that decision being successfully challenged.
- h) Any failure by a member to abide by a personal undertaking in such a situation would fall to be determined by the electors and whether they wished to be represented by a person who had failed to abide by their own personal undertakings.

The Sub-Committee noted that a response from the Subject Member had not been received at the point of publication of the report and considered advice of the Legal Officer in relation to paras 18 – 20 of the report.

The Sub-Committee discussed the current process with regards to sanctions for a breach in compliance with an agreed alternative resolution and noted its disappointment with the options available to them.

Conclusion

The complaint had arisen due to the report from the Parish Council of the Subject Member's current non-compliance to agreed actions under an alternative resolution, relating to the decision of three linked complaints against

the Subject Member, which had been considered by the Sub-Committee on 16 September 2020

The Sub-Committee noted extreme displeasure in the allegations that the Subject Member having not made the apology directly to the former clerk or taken part in the training both, which had been agreed by the Member.

However, it further noted the gaps set out within the alternative resolution arrangements agreed and the legal implications of this, and therefore with hindsight the Sub-Committee felt that this had left the process open to exploitation/failure.

The Sub-Committee therefore requested that the process of alternative resolution be reviewed and tightened up for future assessments.

In summary, the Sub-Committee therefore resolved to take no further action in respect of the complaint.

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020, and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.

70 **Assessment of Complaint: COC141113**

A complaint was submitted by Mr Nigel Valentine and Mr Jason Abbott (the Complainants), regarding the conduct of Councillor Tony Trotman (the Subject Member), a member of Wiltshire Council and Calne Town Council.

Preamble

The Sub-Committee was satisfied that the initial tests of the assessment criteria had been met, in that the Subject Member was and remains a member of Wiltshire Council and Calne Town Council and that a copy of the relevant Codes of Conduct had been provided for the assessment.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the Code of Conduct. If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting and additional information, and the report of the Monitoring Officer.

The Sub-Committee also considered the written statements of the Subject Member and the Complainants who were not in attendance at the meeting.

Discussion

The complaint concerns an incident on 21 June 2022 where the Complainants state that the Subject Member made a visit to their property following a complaint he had received by a neighbour, regarding the Complainants use of an area of land in front of their property, owned by Green Square.

The complaint was accompanied by a video recording of the visit on 21 June 2022 and further information regarding a subsequent matter of an alleged complaint to Green Square in respect of the Complainants, made by the Subject Member following his visit.

The Complainants allege that the Subject Member, during his visit:

- a) Incorrectly stated that some wood placed on their driveway had been there for two years, rather than two days;
- b) Dismissed their allegations of receiving “homophobic spurious vexatious complaints every year” when they fly the Pride flag;
- c) Told them the name of the person who had submitted a complaint about them, which they consider to be a potential data breach;
- d) Visited them with the purpose of intimidating them on behalf of their neighbours, whom the Subject Member described as personal friends of his. The Complainants also allege the visit to have been inappropriate and amounting to harassment.

The Subject Member contends that he visited the Complainants to resolve neighbours’ concerns regarding the use of the outside space owned by Green Square and that he acted without malice and did not instigate harassment at any time.

The Subject Member confirms that at the time of his visit, he was not aware of the actions of some of the neighbours, as subsequently seen on the video later provided by the Complainants and furthermore states that he had no personal relationship with the Complainants’ neighbours.

The Subject Member further contends that he had never discussed flying the Pride flag with the Complainants and had not contacted Green Square regarding the Complainants at any time.

Conclusion

The Complaint relates to a visit by the Subject Member to the Complainants’ property, following complaints from neighbours about the use of the land on or adjacent to their property.

The Sub-Committee noted that there appeared to be a history of disputes involving the surrounding neighbours and the Complainants as relayed during the video recording.

The Sub-Committee felt that this had escalated into a complaint to the Subject Member by a neighbour and as such had subsequently led to his visit to the Complainants' address to attempt to resolve the dispute, which the Sub Committee agreed was an action regularly carried out by elected members as part of their role.

The Sub-Committee noted the manner of the Subject Member as polite and respectful during the visit to ascertain further information and that he had maintained his composure throughout.

The Sub-Committee considered the Subject Member's use of the term 'Traditional' and felt that whilst it could be regarded in different ways and that some may be upset by this use, but as it was possible that he had been referring to the neighbours of the Complainants as having resided on the estate for many years it would be difficult for the use of this term on its own to amount to a breach of the code..

The Sub-Committee felt that it was possible that the Complainants had been subjected to poor behaviour as a result of neighbourly disputes which may have amounted to a matter to be reported to the Police.

However, the Sub-Committee considered that it appeared that the Subject Member had unknowingly been drawn into the dispute whilst acting as a constituent member trying to resolve an issue reported to them involving constituents. The Sub-Committee recognised that attempting to resolve such disputes between constituents is something that elected members are likely to see as part of their role as community leaders and that it would be unfortunate if taking that community leadership role was misconstrued as taking sides in any dispute.

In summary, the Sub-Committee therefore resolved to take no further action in respect of the complaint.

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020, and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.

(Duration of meeting: 1.30 - 2.30 pm)

The Officer who has produced these minutes is Lisa Alexander of Democratic Services, direct line 01722 434560, e-mail lisa.alexander@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114 or email communications@wiltshire.gov.uk