

Standards Hearing Sub-Committee

MINUTES OF THE STANDARDS HEARING SUB-COMMITTEE MEETING HELD ON 17 MARCH 2021 AT ONLINE MEETING.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Fred Westmoreland, Cllr Stuart Wheeler and Mr Richard Baxter (non-voting)

Also Present:

Marie Lindsay (Investigating Officer), Kieran Elliott (Senior Democratic Services Officer), Lisa Moore (Democratic Services Officer), Paul S Barnett (Representative of the Monitoring Officer), Stuart Middleton (Independent Person)

1 **Election of Chairman**

Nominations for a Chairman were sought, and it was,

Resolved:

To elect Councillor Ruth Hopkinson as Chairman for this meeting only.

2 **Declarations of Interest**

There were no declarations.

3 **Exclusion of the Press and 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 Item Number 5 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

4 **Meeting Procedure**

The procedure for the meeting was noted.

5 **Determination of Code of Conduct Complaint COC126112 Regarding (former) Councillor J Tighe, Upavon Parish Council**

On 21 October 2019 a complaint was submitted by Neil and Emma Sheen, the complainants, regarding the conduct of then Councillor John Tighe of Upavon Parish Council, the Subject Member. This was in respect of a telephone conversation between the parties on 18 October 2019.

The Investigating Officer, Marie Lindsay, introduced her report setting out the facts in relation to the complaint. It had been alleged that during the above conversation the Subject Member told one of the complainants 'You do not want to fall out with me, you will regret it' and in so doing breached paragraphs 3 and 7 of the Upavon Parish Council Code of Conduct.

The Investigating Officer set out that following an investigation, the Monitoring Officer had upheld a conclusion that the allegations did not rise to a level of a breach and to take no further action in respect of the complaint. The complainants requested a review of the decision, and a Review Sub-Committee overturned the decision on 10 December 2020 and referred the matter to a Hearing Sub-Committee.

The Subject Member subsequently resigned from Upavon Parish Council. The Review Sub-Committee reconvened on 11 February 2021 and upheld its previous decision notwithstanding the resignation of the Subject Member.

Although there were aspects of the conversation on 18 October 2019 which were disputed, it was not disputed that the specific words alleged had been made.

The Sub-Committee noted that the complainants 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, former 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.

Resolved:

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.**

(Duration of meeting: 10.45 - 11.45 am)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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