

Standards Hearing Sub-Committee

MINUTES OF THE STANDARDS HEARING SUB-COMMITTEE MEETING HELD ON 7 APRIL 2021 AT ONLINE MEETING.

Present:

Cllr Trevor Carbin, Cllr Peter Fuller, Mr Philip Gill MBE (non-voting) and Cllr Fleur de Rhé-Philippe MBE

Also Present:

Emma Holliday (Investigating Officer), Frank Cain (Barrister, Head of Legal Services – representing the Investigating Officer), Peter Gantlett (Subject Member), Andrew Fraser-Urquhart QC (Representing Subject Member), Chris Rickett (Complainant), Kieran Elliott (Senior Democratic Services Officer), Paul Barnett (Acting Team Leader, Public Law and Compliance), Caroline Baynes (Independent Person)

6 Election of Chairman

Nominations for a Chairman of the Standards Hearing Sub-Committee were sought, and it was

Resolved:

To elect Councillor Fleur de Rhé-Philippe MBE as Chairman for this meeting only.

7 Declarations of Interest

There were no declarations.

8 Meeting Procedure

Introductions were made of those present. The procedure for the meeting as set out Paragraph 8 of Protocol 11 of the Constitution was noted.

9 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 Minute Number 10 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

10 **Determination of Code of Conduct Complaint COC128187 Regarding Councillor P Gantlett, Clyffe Pypard Parish Council**

The Hearing was in relation to complaint COC128187 by Mrs Chris Rickett (the Complainant) regarding the alleged conduct of Councillor Peter Gantlett of Clyffe Pypard Parish Council (the Subject Member).

In addition to 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.

Investigating Officer

Frank Cain, Barrister, Head of Legal Services, presented on behalf of the Investigating Officer, Emma Holliday.

The complaint allegations 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 had referred 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*

Mr Cain introduced the findings of the Investigating Officer and the supporting papers. He highlighted the nature of the steering group made up both of elected members and lay representatives, the provisions of the relevant Code of Conduct in respect of bullying and disrespect, the experience of the Subject Member, whether there was a pattern of behaviour, even if not intended, which a reasonable person would regard as bullying or disrespectful, the different perceptions of different observers, and that it was for the Sub-Committee to make a decision on the balance of probabilities.

The first witness called was the Complainant, Chris Rickett, who detailed her experiences on the steering group with the Subject Member, how she had been upset and felt humiliated by some of his actions including taking over assigned tasks, how she had raised her feelings and concerns and that it had been minuted that he would make an apology, which she had never received.

Andrew Fraser-Urquhart QC, representing the Subject Member, then questioned Mrs Rickett as a witness. He sought details on when she had determined to make a complaint, her description of the actions of the Subject Member as a 'campaign of nasty bullying' and allegations of being shouted at and whether this was detailed in other papers, her communications with the Subject Member on other occasions, particularly involving a questionnaire document, related matters with the parish council and the progress of attempted mediation between the parties.

The next witness called was Alan Glasspool, who confirmed the statement he had provided to the Investigating Officer which had supported the allegations of the Complainant.

Mr Fraser-Urquhart QC then questioned the witness, seeking details of the extent of polarisation within the village over some local issues, the role of the Subject Member within the steering group, whether some of the concerns raised by the Complainant had been formally recorded or supported by official documents and whether any actions that had occurred had been isolated incidents.

The next witness called was Nick Kirton, who confirmed the statement he had provided to the Investigating Officer as detailed in the papers. There were no questions.

The next witness called was Marian Kent, who confirmed the statement she had provided to the Investigating Officer. Mr Fraser-Urquhart QC sought details including whether she had had cause to complain about the Subject Member given her comments about his manner, and she set out a previous instance of concern she had raised with the local Unitary Member but not raised as a formal complaint due to other commitments.

In accordance with procedure the Complainant, Chris Rickett, then made a statement.

Members of the Sub-Committee then raised questions in relation to witness statements on the Complainant's experiences of the steering group.

Subject Member

Mr Fraser-Urquhart QC, on behalf of the Subject Member, Cllr Peter Gantlett, then made representations. He sought clarity on concluding statements, and it was confirmed that both Complainant and Subject Member, as parties, could make concluding statements in accordance with procedure. Mr Cain reserved the right of reply should a matter not previously raised be made during representations.

Mr Fraser-Urquhart QC called the Subject Member as a witness. During questioning by his representative, he stated he had not been interviewed by the Investigating Officer and that there had been two complaints running in parallel. He provided detail on the process for developing a neighbourhood plan and

how this could lead to disagreements and how as Chairman of the Parish Council he had sought to assist things. It was stated he is not a loud or sometimes clear speaker, and disagreed with the allegations that he had ever been verbally aggressive or shouted during any meeting, and had not had any sense from the Complainant that they had felt upset. He disputed accounts that he had taken over tasks and had only sought to assist with the overall process and noted a separate complaint COC128184 from Dr Guy Rickett which had not determined a breach. He provided detail of tasks of the steering group, who had been assigned and his attempts to be helpful given worries around delays to the process. He stated he had felt attacked by accusations but was willing to meet with the Complainant and apologise, but thought this would be inappropriate once the formal complaint had been raised. He stated he had been willing to undertake mediation, but his impression was the Complainant had not been willing. He noted his near 30 year involvement with the parish, and how councils work through persuasion, and that he had not and did not engage in bullying campaigns, nor had he singled out the Complainant in any way.

Following a break from 1245-1330, questions were asked of the witness. Mr Cain sought details of how long the Subject Member had been a parish councillor (around 20 years, during which he had been Chairman for over ten years), and other community involvement he had had. In response to questioning, the Subject Member said he could not find an email listed in papers regarding the Complainant raising concerns with his tone and manner early in the steering group process. Details were sought on the council's Code, and how the council worked with others, and the status of the Subject Member as an experienced member, and if he had considered the impact of his communications. Details were sought on the matter of a draft survey task assigned to the Complainant, on which the Subject Member had sought feedback from others and presented to the steering group by email. It was also confirmed the Subject Member had not apologised to the Complainant, as he did not feel he should act outside the process.

Questions from the Sub-Committee to the Subject Member were taken after the next witness, seeking detail on mediation attempts, whether there had been impatience driving any actions, and the offering of an apology.

The next witness called was Chris Thompson, who confirmed his statement and that he had worked with the Subject Member over a number of years, and did not recognise the description of him as shouting or belittling. Mr Cain then raised some questions clarifying the level of contact with the Investigating Officer.

The next witness called was Edmund Rudler, who confirmed his statement and that he had never known the Subject Member to shout or make alleged comments about the quality of the Complainant's work. He stated he had not shared the concerns raised by Mr Glasspool, which he had felt was an overreaction, and did not recollect that there had been a campaign of bullying by the Subject Member in any way.

The next witness called was Rosemary Greenway, who confirmed her statement as detailed in the papers. She stated the Subject Member spoke plainly at times, but had not shouted as alleged, nor been rude or patronising, and did not believe there had been a bullying campaign by the Subject Member, who she had known for 30 years.

The Sub-Committee sought clarification on a comment regarding the Subject Member opening a meeting, although he had not been in the Chair.

The next witness called was Diane Zeitsen, who was the clerk to the parish council for the last 3 years. She confirmed her statement and the accuracy of minutes she had produced referred to in the papers, which had been approved unanimously by the council. Although not attending the steering group, in response to questions from Mr Fraser-Urquhart QC she said she had not seen the Subject Member act in such a way and that he had been a pleasure to work with as clerk.

Mr Cain sought confirmation the witness had not attended the steering group and so no direct knowledge of the relationship between the Complainant and Subject Member, which was agreed.

A break was then taken from 1445-1505

Concluding Statements

Mr Cain set out the facts as he saw them, with three key areas on 13 February 2018, 13 August 2019 and 24 February 2020, which had caused upset to the complainant and prompted her to action. He noted people could have a different perception of events, but highlighted that the Complainant had been new to the processes and communicated her perceptions to the Subject Member. He drew attention to the ability under the complaints arrangements to settle matters informally, including by making an apology, and therefore it was not inappropriate for someone to apologise if they had indicated they were willing to do so as the procedure did not prevent this.

He noted the Complainant's perceptions of being bullied, and that it was for the Sub-Committee to determine whether the alleged actions were likely to have happened and whether a reasonable person observing such a pattern of behaviour

would regard that pattern of behaviour as bullying. Mr Cain considered the evidence indicated there had been a breach of the Code regarding disrespect and bullying. He again reserved the right of reply to any new legal arguments.

Mrs Rickett, as Complainant, then made a concluding statement. She was disappointed to listen to several witnesses, including the clerk, who were not related to the case in terms of seeing the interactions between the parties. She stated she had told the truth as she saw it, and noted that not all witnesses had been asked if they had heard the Subject Member shout, and considered several points raised on parish council matters, and her husband who was on the parish council, did not relate to her complaint regarding bullying. She discussed the attempt at mediation and her concerns on a lack of sincerity. She

claimed that it was suggested that because she did not raise every single concern that the bullying did not occur, when it was hard to admit when you were being bullied and she had tried to deal with it as best she could. She countered the portrayal by the Subject Member as the mild-mannered victim and highlighted definitions of bullying and way his behaviour had made her feel. She concluded that he needed to realise his behaviour had been unacceptable and should not be tolerated.

Mr Fraser-Urquhart QC then made a concluding statement on behalf of Cllr Gantlett. He highlighted the test of what a reasonable person would think of the events, and that bullying and disrespect was more than merely disagreeing or expressing displeasure. He raised that the burden of proof rested with the Investigating Officer to demonstrate the alleged actions had occurred. He considered the balance of probabilities was the required test, and that this was flexible, in the more serious an allegation, the more certain one needed to be on the evidence. He stated an allegation of nasty bullying needed to be pretty certain. He detailed what he considered the generalised nature of the allegations, and that he considered it significant a formal complaint was not raised earlier. With the more detailed allegations such as the shouting he pointed to witness statements and that other evidence in statements did not support the allegations. He did not consider the actions in respect of 'road testing' a survey assigned to the Complainant to have been an act of disrespect as a reasonable person would view it, and stated the Subject Member had not wanted to apologise and prejudice his position given the complaint, but said he had been willing to seek mediation. He concluded that this was a case of someone trying to help to get things done and no reasonable person could regard it as bullying.

Mr Cain exercised his right of reply on the standard of proof and stated there was no sliding scale for more serious evidence for more serious allegations. The balance of probabilities, that something was more likely than not, remained an unvaried standard in law.

Mr Fraser-Urquhart QC sought to respond further, but the Chairman ruled that Mr Cain had made his right of reply on a previously unraised legal point and it was not appropriate for further statements from the other party.

The Hearing Sub-Committee then withdrew at 1610.

Deliberations

Following the concluding statements, and having heard 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 1700 at the conclusion of deliberations, and the decision of the Sub-Committee was announced to the parties and their representatives as detailed below.

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:

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.

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.

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.

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.

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.

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?

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.

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.

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.

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.

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. 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.

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.

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.

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:

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.

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.

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

(Duration of meeting: 9.05 am - 5.10 pm)

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

Press enquiries to Communications, direct line (01225) 713114/713115