

Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 16 MARCH 2023 AT KENNET ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Richard Britton and Cllr Gordon King
Kathy Barnes (non-voting), Joanne Cetti (non-voting)

Also Present:

Tony Drew (Independent Person), John McAllister (Independent Person), Henry Powell (Democracy and Complaints Manager)(Virtually), Jo Madeley (Head of Legal Services-Deputy Monitoring Officer), Maria Doherty (Head of Democracy, Governance and Customer Services-Deputy Monitoring Officer), Lisa Alexander (Senior Democratic Services Officer), Max Hirst (Democratic Services Officer).

Present to deliver verbal statements only:

Cllr Kevin Daley (Subject Member COC143439)
Mr Kyle Meredith (Complainant COC143439)

95 **Apologies**

Apologies were received from:

- Cllr Ernie Clark
- Cllr Sam Pearce-Kearney

96 **Minutes of the Previous Meeting**

The minutes of the meeting held on 15 December 2022 were presented for consideration, and it was,

Resolved:

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

97 **Declarations of Interest**

In relation to COC143439, for openness, Councillor Richard Britton noted that he was a member of the Salisbury Conservative Association, which the Subject Member was chairman of, however he had no personal relationship with the Subject Member. As this did not constitute an Interest, Councillor Britton took part in the consideration and vote on this complaint.

In relation to COC144062, Councillor Gordon King noted that he was in attendance at the LHFIG meeting referred to in the complaint, and as such, he would leave the room and not take part in the discussion or vote on that item when it was considered (this complaint was deferred).

98 **Meeting Procedure and Assessment Criteria**

The procedure and criteria were noted.

99 **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

100 **Assessment of Complaint: COC143439**

A complaint was submitted by Mr Kyle Meredith, the Complainant, regarding the conduct of Councillor Kevin Daley, the Subject Member, of Wiltshire Council. The complaint related to allegations that the Subject Member sent an email which was inappropriate in tone, attitude and overall approach to a real and serious issue and intentionally and repeatedly provided false information relating to the volume of customer parking around a public house close to the homes of the Complainant and the Subject Member.

Preamble

The Sub-Committee noted the reason for allowing the complaint after the 20 day timeframe as set out in Wiltshire Council's Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints and in paras 6-8 of the report.

The Sub-Committee was satisfied the initial tests of the assessment criteria had been met, in that the Subject Member was and remains a member of Wiltshire Council and that a copy of the relevant Code of Conduct was 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, the response of the Subject Member, the report of the Monitoring Officer and the comments of the Independent Person who was in attendance.

The Sub-Committee also considered a verbal statement from the Complainant, and the Subject Member, who were both in attendance.

Discussion

The complaint involved allegations of an inappropriate email response and intentional provision of false information with regards to a parking issue raised by the Complainant and associated with a public house close to the Complainant's and the Subject Member's homes.

The Complainant alleged that the Subject Member had failed to take action regarding a parking issue, which the Complainant believed to represent a risk to public safety. It was further alleged that this may be because the Subject Member had a personal relationship with the public house.

The Complainant alleged that the Subject Member falsely accused him of providing the Police with misleading information and did not apologise for doing so when asked.

The Complainant also stated that, when responding to an email from the Complainant regarding the parking issue, the Subject Member raised the irrelevant matter of the Complainant's historic planning application. He alleged that to have details of this application the Subject Member must have obtained it through misuse of council resources or an abuse of access, through his status as a member of Wiltshire Council and specifically the, then, Portfolio Holder of Streetscene and Passenger Transport.

The Complainant also alleged that the Subject Member falsely accused the Complainant of parking his own vehicle on the road that he had subsequently objected to others parking on for about a year.

At the Sub-Committee meeting the Complainant clarified that the photographic evidence of the Complainant's car provided by the Subject Member in fact showed a different vehicle to the one which he owned at the time.

The Subject Member, in his response, queried why the complaint had been accepted when it had been received after the 20 working day period required under Protocol 11.

At the Sub-Committee meeting, the Subject Member questioned the complaints process, advising that he had not been contacted by one of the Council's statutory Independent Person and that he felt the complaint should have been dismissed by the Monitoring Officer on the grounds of being of an excessive

and vexatious nature, further adding that the local MP had also received enquiries from the Complainant regarding the parking matter.

The Subject Member stated in his response that the Complainant had parked for approximately one year in the area that he states should not be used by patrons of the public house for reasons of safety. The Subject Member also provided a photograph of this as evidence.

The Subject Member suggested that the Complainant had a long-term problem with the public house and had acknowledged that parking around the public house was a problem for the whole village.

In response to the allegations relating to the tone of his latest email, the Subject Member explained that there were only so many ways you could advise someone that if, in their opinion, a criminal offence has taken place, then they should report it.

In relation to the allegation of false information being provided, the Subject Member confirmed that it was his belief that the Complainant had lied to the Police regarding the advice given by the Subject Member.

The Subject Member confirmed that he, as the divisional member for the area, received notifications relating to local planning applications, as did every other Wiltshire Councillor for their division, as part of their role.

Conclusion

The Sub-Committee was satisfied with the reason set out by the Monitoring Officer regarding his decision to allow the Complaint to proceed though it was received two working days after the 20-working day deadline, as set out in the report. This was because the Complainant had contacted the Council about the complaint within the deadline but required advice on the correct complaints procedure to follow. The Sub-Committee also noted that the Subject Member's response to the Complaint was accepted for consideration by the Sub-Committee, though this was received after the given 10-working day deadline.

The Sub Committee noted para 3.5 under Protocol 11, that at any time during the complaints process the Subject Member had access to and may consult with an Independent Person designated to them, using the contact details provided.

The Sub Committee noted the high level of frustration felt by both parties, which it was felt had arisen partly due to the way in which the Subject Member had presented information within his email correspondence with the Complainant.

The Sub-Committee agreed that incidents of illegal parking were a Police matter, however, if there were no parking restrictions in place, the ongoing issue of excess parking associated with users of the public house was not the sole responsibility of the Subject Member to resolve, despite being understandably frustrating for local residents.

The Sub-Committee agreed that reference to a historical planning application of the Complainant made by the Subject Member was irrelevant to the parking issue and added no value to the correspondence. However, it was noted that planning applications were available publicly on the planning portal and that it was therefore normal for division members to be aware of planning applications within their areas.

The Sub-Committee agreed that if proven the alleged actions of the Subject Member would not represent a breach of the relevant Code of Conduct.

The Sub-Committee provided an advisory note in addition to the decision.

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

It was;

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.

Advisory

The Sub Committee suggested that the Subject Member reflects on his approach to responding to enquires from constituents to avoid future misunderstandings regarding what was within his scope as divisional member.

101 **Assessment of Complaint: COC144062**

This application was deferred due to the meeting being inquorate for this complaint.

102 **Assessment of Complaint: COC144389**

The Complainant related to actions of the Subject Member at a meeting of the Winsley Parish council on 7 February 2023.

Preamble

The Sub-Committee was satisfied the initial tests of the assessment criteria had been met, in that the Subject Member was and remains a member of Winsley Parish Council and that a copy of the relevant Code of Conduct was 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, the response of the Subject Member, the report of the Monitoring Officer and the comments of the Independent Person who was in attendance.

The Subject Member and the Complainant were not present at the meeting and no additional statements were provided.

Discussion

The complaint involved two parts, firstly the Complainant alleged that the Subject Member, at a public meeting, used the term 'manpower' instead of using a gender-neutral term and secondly that the Subject Member tutted and laughed when the Complainant was speaking.

The Complainant alleged that through these actions the Subject Member was rude, acted inappropriately and has brought the council in to disrepute.

The Complainant expected a formal written apology from the Subject Member as well as a written explanation regarding his actions relating to speed limits in the area, however it was noted that the speed limit issue related to decision-making and therefore fell outside of the Standards regime.

The Subject Member in his response stated that the word 'manpower' had been used for generations to refer to 'the number of workers needed or available to do a specific job' and it was within that context in which he used the term. The Subject Member provided further examples of the terms use and stated that neither Winsley Parish Council or Wiltshire Council had any policy requiring the use of 'gender neutral' language.

Regarding the meeting in question, the Subject Member stated that the Complainant's tone towards volunteer members was an angry one, adding that in his view, volunteers that served their community should be treated with courtesy and that it was not the first time that the Complainant had been discourteous towards parish councillors, having in the past demanded by email, the resignation of councillors and officers.

Conclusion

The Sub-Committee agreed that during debate, at all levels of council and public meetings there was often a level of background response from attendees to indicate disagreement with the view being expressed. The Sub Committee agreed that whilst this could be interpreted differently by individuals, usually this type of this expression was not intended to be disrespectful.

The Sub-Committee noted that there was a high level of frustration felt by Complainant regarding ongoing issues relating to local speed limits as part of an Active Travel Plan, which may have led the Complainant to scrutinise the Subject Member. It was noted that decision making on highway matters did not fall under the remit of the Standards regime and therefore was not for the Sub Committee to take a view on.

The Sub Committee further noted that it was not aware of any policies requiring the use of gender-neutral terminology by councillors and agreed that the use of the term 'manpower' was not intended to be malicious or cause offence. It would therefore not be reasonable to hold the Subject Member to account for use of the term 'manpower' when it remains widely used.

The Sub-Committee agreed that if proven the alleged actions of the Subject Member would not represent a breach of the relevant Code of Conduct.

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

It was;

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.

103 **Assessment of Complaint: COC144524**

In considering the complaint, the Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was a member for the period of allegations and remains a member of Downton Parish Council, that a copy of the relevant Code of Conduct was provided for the assessment and that they may have been acting in their capacity as a Member during some aspects of the alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. Further, if it was felt it would be a breach, whether it was still 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, the response of the Subject Member, the report of the Monitoring Officer and the comments of the Independent Person in attendance at the meeting.

No additional written or verbal statements were provided by the Subject Member or Complainant, and neither was in attendance at the meeting.

After discussion, it was:

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 refer the complaint for investigation.

104 **Assessment of Complaint: COC144650**

The complaint was postponed to a future meeting.

(Duration of meeting: 11.05 am - 12.35 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

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