

STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 9 DECEMBER 2016 AT THE NORTH WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Trevor Carbin, Cllr Ernie Clark, Miss Pam Turner and Cllr George Jeans

Also Present:

Paul Taylor (Senior Solicitor), Colin Malcolm (Independent Person), Caroline Baynes (Independent Person) and Kieran Elliott (Senior Democratic Services Officer)

37 Election of Chairman

Resolved:

To elect Councillor Trevor Carbin as Chairman for this meeting only.

38 Declarations of Interest

There were no declarations.

39 Meeting Procedure and Assessment Criteria

The procedure and assessment criteria for the meeting were noted.

It was noted that Councillor George Jeans was attending in place of Councillor Pip Ridout.

40 Exclusion of the Public

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 Minutes No. 41 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.

41 **Review of Assessment Decisions: WC-ENQ00148, WC-ENQ00182, WC-ENQ00183, WC-ENQ00184**

The Sub-Committee considered a series of complaints against Councillor Allison Bucknell, a member of Wiltshire Council. The allegations covered a series of interrelated events and actions the complainant considered were in breach of the Code of Conduct.

The Chairman led the Sub-Committee through the local assessment criteria which detailed the initial tests that should be satisfied before assessment of a complaint was commenced.

Upon going through the initial tests, it was agreed that the complaints all related to the conduct of a member and that the member was in office at the time of the alleged incidents and remains a member of Wiltshire Council. A copy of the appropriate Code of Conduct was also supplied for the assessment. The Sub-Committee therefore had to decide whether the allegations across the four complaints would, if proven, amount to a breach of that Code of Conduct. Further, if it was felt they would be a breach, was it appropriate under the assessment criteria to refer the matters for investigation.

The Sub-Committee relied upon the report of the Monitoring Officer, original complaints, subject member responses, initial assessment for the first series of complaints and the additional information supplied in the complainant's request for a review of that initial assessment during their considerations. The Sub-Committee also considered the written representations made to the Review by the complainant and subject member, neither being in attendance.

General Points

A number of issues had been raised in consideration of the initial and subsequent complaints, which impacted across all the complaints.

Behaviour's Framework – The Sub-Committee was in full agreement with the Deputy Monitoring Officer's interpretation of the Wiltshire Council Behaviours Framework and its relationship with the Code of Conduct. A copy of the Framework had been included with the agenda since members were required to have regard to the Framework as an appendix to the Code, but as detailed by the Deputy Monitoring Officer, a breach of the Framework was not automatically sufficient to be a breach of the Code, though it was a relevant consideration as to whether a breach of the Code itself had potentially occurred.

Assessment Procedure – It was noted that while it was within the power of a Review Sub-Committee to come to a different view than the Deputy Monitoring Officer while utilising the same assessment criteria, the Sub-Committee had no authority to alter the proscribed constitutional procedure for the assessment of

complaints or alter the relationship between the Code of Conduct and the Wiltshire Council Behaviours Framework as had been requested by the complainant in the request for a review of WC-ENQ00148.

WC-ENQ00148

Incident 1

The initial incident behind the complaint was the subject member's attendance at a meeting of the parish council, and what the complainant regarded as unacceptable interference and hostile behaviour from the subject member during or following that meeting.

Whatever the real or perceived motivations of the subject member at the meeting, no evidence had been provided with the complaint or subsequently which suggested her actions had been capable of breaching of the Code. It could not be a breach of any provision of the Code by the subject member for persons other than the subject member to disrupt the meeting, even if the disagreement that arose was indeed felt to be an unreasonable disruption.

Therefore, the Sub-Committee supported the reasoning of the Deputy Monitoring Officer to dismiss the complaint. Even if it were felt the behaviour of the subject member was unhelpful in the situation that had arisen, attending a meeting and disagreeing with the council were not actions capable of breaching the Code.

Incident 2

The incident behind the complaint involved an email from the subject member to council officers which included apologising for, as she saw it, parish council enquiries resulting in additional, unnecessary work.

The Sub-Committee was supportive of the reasoning of the Deputy Monitoring Officer that the email in question, copied to the complainant, was it appeared a standard communication from a councillor to an officer. There was no evidence information was being purposefully withheld from the parish council, the clerk to which had been copied into the email, and while the complainant was dissatisfied with the tone of the email, it could not rise to the level of a breach.

Incident 3

The incident behind the complaint involved the subject member questioning at a steering group meeting whether the parish council had lawfully taken a decision to withdraw from a proposal from the steering group.

Whether or not the decision to withdraw had indeed at that time been taken lawfully by the Parish Council, questioning the lawfulness could not in itself be a breach of a Code of Conduct. All decision makers must be open and accountable, and whether the subject member was correct or not, they were entitled to raise the question.

The Sub-Committee therefore supported the decision of the Deputy Monitoring Officer to dismiss the complaint.

Incident 4

The incident behind the complaint involved allegations the subject member withheld information and sought to undermine the parish council in an attempt to assert inappropriate influence and control of public money, in relation to a meeting with the body appointed to set up the Bradenstoke Solar Park Community Benefit Fund arranged by the Defence Infrastructure Organisation (DIO) and the British Solar renewables who together set up the fund.

Insufficient evidence had been supplied to indicate a breach of the Code may have occurred, and therefore in accordance with the assessment criteria the Sub-Committee supported the reasoning of the Deputy Monitoring Officer to dismiss the complaint.

The following complaints did not receive initial assessments by the Deputy Monitoring Officer, as under paragraph 11.1 of Protocol 12 of the Constitution the Monitoring Officer determined to depart from the review arrangements in order to expedite the effective and fair consideration of the matters therein. Therefore, any determination is not subject to a further review. The departure from usual arrangements was only concerned with expediting the administrative process in the interests of efficient and fair consideration, and had no bearing on the assessment criteria or the Code on which the complaints would be assessed. Attempts had been made following submission of the complaints to undertake formal mediation between the parties.

WC-ENQ00182

This complaint was in relation to various comments made by the subject member when responding to the allegations in the complaints listed under WC-ENQ00148. Much of the substance of the complaint was concerned with arguing against the Deputy Monitoring Officer's initial assessment of those original allegations, which have been dealt with under the heading for WC-ENQ00148. The Sub-Committee therefore focused on the allegations that the comments of the subject member in responding to the previous complaints had themselves been capable, if proven, of breaching the Code. There were three incidents of alleged breaches of the Code:

Incident 1

The allegation was that the subject member had made false statements in response to the original complaints, and therefore breached the Nolan principles of integrity, openness and honesty, as well as paragraph 4 of the Code to be accountable for decisions and cooperate with scrutiny appropriate to one's office. These statements related to the meeting that was arranged between the subject member and members of the parish council and who had instigated that meeting.

Incident 2

The allegation was that the member had made false statements in response to the original complaints, and therefore breached the Nolan principles of integrity, openness and honesty, as well as paragraph 1 and 4 of the Code. These

statements related to the actions of the subject member at the meeting of the parish council on 13 October 2015

Incident 3

The allegation was that the member had made false statements in response to the original complaints as detailed above, and therefore breached the Nolan principles of integrity, openness and honesty, as well as paragraph 4 of the Code. These statements related to the withdrawal of the parish council from the NEW-V group.

Paragraph 4 of the Code states '*You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office*'. The Sub-Committee noted that paragraph 4 of the Code related to decisions taken by a subject member, and that all three incidents in question concerned statements by the subject member recounting her version of events. Paragraph 4 therefore did not apply as no decisions were being taken by the subject member.

The Sub-Committee therefore had to consider if, by making her statements, the subject member would have breached the Nolan principles detailed above and whether, in recounting her version of events in the manner she had, the subject member had breached the Code, and even if that was felt to be the case, was an investigation in the public interest.

Paragraph 1 of the Code states '*You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate*'. The question was therefore whether, should the allegation in incident 2 be proven, would that confer an advantage to the subject member or disadvantage to others, to gain financial or other material benefit. No such financial or material benefit was alleged to have been gained; therefore the alleged false statements could not be capable of breaching the Code of Conduct.

It was apparent that the subject member and complainant had different recollections of some of the events concerned and that the comments made reflected their personal opinions on those events. On the accounts as provided, the Sub-Committee determined that the comments made by the subject member in respect of each incident forming the complaint for WC-ENQ00148 were not capable of being a breach of the Code.

WC-ENQ00183

Incident 1

The allegation was that the subject member had breached paragraphs 1 and 7 of the Code as a result of her views as summarised by the independent mediator who had attempted to help the two parties resolve their difficulties, as well as breaching the Nolan Principles of selflessness and accountability.

Paragraph 1 of the Code states '*You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or*

act to gain financial or other material benefits for yourself, your family, a friend or close associate'. The complainant clarified that the Parish Council had questioned the propriety of using public funds to pay for mediation to resolve what they regarded as personal issues between the subject member and members of the Parish Council and that the subject member had breached paragraph 1 by expecting personal issues to be resolved at the public expense.

Paragraph 7 states 'You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986. Members of Wiltshire Council will have regard to the Roles and Responsibilities of Wiltshire Councillors according to Appendix 1 and Wiltshire Council Behaviours Framework at Appendix 2'.

It was noted that the complainant in their request for a review of WC-ENQ00148 had requested that mediation be undertaken between the parties, and that it had been the Monitoring Officer of Wiltshire Council who had authorised the use of resources to mediate between them following submission of subsequent complaints.

Therefore the Sub-Committee was of the view that consenting to mediation on the authority of the Monitoring Officer as being in the public interest, was not capable of breaching the Code of Conduct.

Incident 2

It was also alleged the subject member had, in the same email summary from the mediator, used denigrating terms regarding members of the parish council, breaching principles of integrity and objectivity as well as the requirement to promote and support high standards of conduct.

It was noted the complaint related to an email from a third party, the mediator, relating their summary of the subject member's views as part of the mediation process to identify issues as each side saw them. The Sub-Committee did not feel, therefore, that even if the alleged comments were proven they were capable of breaching the Code of Conduct.

WC-ENQ00184

This complaint related to comments made by the subject member regarding the decision of the parish council to apply for a re-designation of the parish as a neighbourhood plan area, and the implications of that decision on the consideration of a planning application for residential development in the parish. It was alleged that the subject member, in her comments, had denigrated the work of the parish council and shown disregard for the principles of integrity, objectivity, honesty and leadership, as well as breaching the obligation to promote and support high standards of conduct.

Having considered the complaint and the subject member's response, the Sub-Committee did not consider the allegation, if proven, was capable of breaching

the Code of Conduct. Merely commenting upon the actions of a council or member, even negatively, was not in itself capable of breaching the Code.

Conclusion

When viewing the totality of the complaints and the incidents from which they arose, it was readily apparent that there had been a breakdown of trust in the relationship between the subject member and the parish council members and its supporting officer, the complainant. It was further apparent that multiple attempts had been made, with the support of Wiltshire Council, to improve the working relationship between these parties, and that these efforts had been unsuccessful, to the detriment of the political and communal environment of Lyneham and Bradenstoke and its residents.

The Sub-Committee were strongly of the view that the standards regime was not an appropriate forum to try to resolve the issues between the subject member and the parish council, given they were of the view that none of the allegations listed above would, if proven, amount to a breach of the Code, or were in the public interest to investigate further. Therefore, it was hoped there might be renewed efforts arising from the conclusion of the current complaints to resolve the personal difficulties that had arisen between the parties.

Therefore, it was

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee decided not to refer any of the complaints for further investigation. However, in view of the number and nature of the complaints that had been raised, the Sub-Committee decided to ask the Monitoring Officer to consider whether there were any other measures that might be taken to try to reconcile the obvious conflicts that existed between the subject member and members of the parish council, whilst accepting that formal mediation was not likely to be appropriate in this case.

(Duration of meeting: 1.30 - 2.30 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