

STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 17 AUGUST 2017 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Trevor Carbin, Cllr Ruth Hopkinson and Cllr Ernie Clark

Also Present:

Kieran Elliott, Senior Democratic Services Officer, Paul Taylor, Senior Solicitor, Paul Barnett, Senior Solicitor, Tony Drew, Independent Person, Cllr Mary Douglas, Susan Dawson.

34 **Election of Chairman**

Resolved:

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

35 **Declarations of Interest**

There were no declarations.

36 **Meeting Procedure and Assessment Criteria**

The procedure and assessment criteria for the meeting were noted. Cllr Ernie Clark substituted for Cllr Allison Bucknell.

37 **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 Minute 38-39 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.

38 **Review of an Assessment Decision: Reference WC-ENQ00215**

A complaint had been submitted by Mr Patrick and Mrs Lucinda Horton against Cllr Susan Dawson of East Knoyle Parish Council. The allegation was that there had been a breach of the Code of Conduct in relation to conduct surrounding a public right of way.

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 complaint related to the conduct of a member and that the member was in office at the time of some of the alleged incidents and remains a member of East Knoyle Parish Council. A copy of the appropriate Code of Conduct was also supplied for the assessment.

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, was it still appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the complaint and supporting documentation, the response of the subject member, the initial assessment of the Deputy Monitoring Officer to take no further action and the complainants' request for a review. The Sub-Committee also considered the verbal representation made at the Review by the subject member, as well as written submissions from the complainants, who were not in attendance, and the subject member.

The Sub-Committee took note that the additional representations from the complainants stated that they considered that the summary of their complaint in the initial assessment, replicated above, did not adequately reflect the substance of their complaints. They noted the clarifications provided by the complainants for the review. These included that the complainants considered the subject member's actions to have breached paragraphs 1,2,3 and 4 of the Code of Conduct. The complainants had also set out what they considered to be the links between the public and private actions of the subject member that had allegedly been to her own personal advantage.

The complaints related to the circumstances around a public right of way that lay on the subject member's property, and the recent and historic actions of the subject member in relation to that right of way. The complainants were of the view that the subject member had breached the relevant Code of Conduct by failing to properly register and declare her interest in the land at various meetings and during the discharge of council related functions. The initial

assessment had concluded that the subject member had been acting in her private capacity for most of the alleged incidents, where the Code would not apply, and that the allegations which did relate to her public capacity as a parish councillor would not, if proven, be a breach of the Code.

Considerable documentation had been provided which demonstrated that the exact route of the public right of way in question, and actions around it, had been the subject of significant local interest and dispute over an extended period of time of many years. However, as noted in the initial assessment, disputes relating to accuracy of any of that evidence would not be a Code of Conduct matter, except insofar it related directly to the public capacity of the subject member.

It was evident that the complainants were in dispute with the subject member regarding the accuracy of statements made in relation to evidence gathered during the legal process for creation of an additional right of way alongside the existing one, and the alleged obstruction of the existing right of way in the past. Most of these statements were clearly in relation to the private role of the subject member as a landowner, and the question for the Sub-Committee was to what extent the matter had directly arisen only in relation to her role as parish councillor and the discharge of council functions.

As conceded by the complainants in their request for a review, the subject member was under no legal obligation to make a declaration on her register or at council meetings regarding the right of way which was the cause of dispute between the parties. The only obligation was to register and disclose her general land interests, as set out in the relevant regulations. In the absence of a legal obligation to make such a declaration, it therefore could not be possible to breach the Code by failing to do so. The Sub-Committee was in agreement with the deputy monitoring officer that it would not be a breach to fail to make a declaration or withdraw from the meeting when an unscheduled update mentioning the land was raised by another councillor.

As noted in the initial assessment, the complaint was principally a dispute between neighbours over a public right of way which had resulted in a serious breakdown in communication and trust. It was apparent that communication between the involved parties was at times strained, and the tone hostile. However, despite the extensive submissions, the Sub-Committee was not satisfied that it had been demonstrated that the subject member either had an obligation to volunteer her position regarding the public right of way, or that she had utilised her position as a member of the parish council improperly, or that she had otherwise breached the Code. Simply being a member of the parish council would not make every action of the subject member in relation to the right of way a public rather than private capacity action.

As such, the Sub-Committee did not feel the submissions indicated there had been an improper use of council resources, that an advantage or disadvantage

had been improperly conferred, or that in her public capacity the subject member had demonstrated disrespect. The complainants had made reference to distress caused by what they described as harassment and vandalism they suffered as a result of 'false rumours'. However there was no suggestion the subject member had been a party to any harassment or vandalism.

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

Decision

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 has decided to take no further action.

39 **Review of an Assessment Decision: Reference WC-ENQ00204**

A complaint had been submitted by Ms Carrie Creamer against Councillor Mary Douglas of Wiltshire Council. The allegation was that Councillor Douglas had breached the Code in relation to consideration of a grant application.

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 complaint related to the conduct of a member and that the member was in office at the time of the alleged incident 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 alleged behaviour would, if proven, amount to a breach of that Code of Conduct. Further, if it was felt it would be a breach, was it appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the complaint, the initial assessment of the representative of the Monitoring Officer to take no further action and the complainant's request for a review. The Sub-Committee also considered the verbal representation by the subject member at the Review. The complainant was not in attendance.

The allegations related to a meeting of Salisbury Area Board, where the subject member is the Chairman, and the consideration of a grant application which was refused by a majority of the Area Board. That application was for a project looking at the history of LGBT communities through the lens of fashion. It was alleged that the personal views of the subject member in relation to LGBT issues meant that she did not act in the public interest when considering the

grant, failed to give adequate, open or transparent reasons for her decision and failed to consider the needs of different groups, and in doing so breached the Code as detailed above.

As noted in the initial assessment five members of the Area Board voted against the grant in question, including the subject member. The subject member had raised concerns before and at the meeting about what she regarded as the political nature of the grant request, due to the type of activity supported by the grant rather than the type of person the intended project would engage. However, those concerns were not shared by the other members, and the reasons for refusal, confirmed as accurate at a later meeting by the Area Board, did not include them as a reason for the refusal. While the Sub-Committee did not agree with the reasoning of the subject member's interpretation of the grant request as political activity, she had been open and transparent about her concerns at the meeting. They endorsed the comments in the initial assessment that what might constitute political activity in the context of a grant application should be formally clarified in guidance to Area Boards.

As noted four other members had voted to refuse the grant application in addition to the subject member. There was no suggestion that the other members had acted improperly, and merely holding specific personal views would not, in itself and in the absence of evidence to the contrary, demonstrate that the subject member had acted in breach of the Code. The request for review raised concerns with the stated reasons for refusal at the meeting. However as stated previously these had subsequently been confirmed as accurate by the Area Board, and there had been no evidence submitted that the subject member had not openly and transparently considered the application. Even if someone felt the reasons given by the Area Board were inadequate, five members had in open debate considered otherwise.

As a result, the Sub-Committee considered that there was no evidence submitted that the subject member had contravened paragraphs 1 and 5 of the Code, or failed to have regard to the Nolan principles of conduct in public life as alleged.

Decision:

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 has decided to take no further action.

(Duration of meeting: 1430-1530)

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