

## Standards Review Sub-Committee

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**MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 7 FEBRUARY 2020 AT KENNET ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.**

**Present:**

Cllr Ernie Clark, Cllr Peter Fuller, Cllr Gordon King and Mr Michael Lockhart (non-voting)

**Also Present:**

Paul Barnett (Legal Services), Kieran Elliott (Democratic Services), Stuart Middleton (Independent Person Sub-Committee COC126525, COC126486, COC126543), Tony Drew (Independent Person Sub-Committee COC126112, COC127052), Jon Martin (Complainant COC127052)

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**1 Election of Chairman**

**Resolved:**

**To elect Councillor Ernie Clark as Chairman for this meeting only.**

**2 Declarations of Interest**

There were no declarations.

**3 Meeting Procedure and Assessment Criteria**

The procedure and assessment criteria for the meeting were noted.

**4 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 Agenda Item Number 5 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*

## 5 **Review of an Assessment Decision: Reference COC126112**

### Preamble

A complaint was submitted by Neil and Emma Sheen regarding the alleged conduct of Cllr John Tighe, Upavon Parish Council. The complainant alleges that during a telephone call with the subject member on 18 October 2019 the subject member was rude and bad tempered. It is also alleged that the subject member attempted to bully and intimidate them by making the comment, "*you do not want to fall out with me you will regret it*" at the end of the telephone conversation. In doing so it is alleged he has therefore breached paragraphs 3 and 7 of the Upavon Parish Council Code of Conduct and has failed to live up to the general principles of selflessness, integrity, accountability, openness, honesty and leadership required by Upavon Parish Council and the public office he holds.

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the member was and remains a member of Upavon 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 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, the response of the Subject Member, and the initial assessment decision of the Representative of the Monitoring Officer to refer the matter for investigation.

The Sub-Committee also considered written statements from the Complainants and the Subject Member at the Review Sub-Committee meeting on 7 February 2020, with no party being in attendance.

### Conclusion

The principal allegation of the complaint related to the allegation of threatening or intimidatory language by the Subject Member toward the Complainant. Notwithstanding the clarifications of the Subject Member in their statements the Sub-Committee considered that the alleged language, if proven, could amount to a breach of the Code of Conduct.

In considering whether or not the matter should be referred for investigation, the Sub-Committee noted comments from the parties and the personal nature of the issues which had escalated, it was alleged, to the matters giving rise to complaint. It therefore concluded that before any investigation was undertaken into a potential breach, there should be an attempt to mediate between the parties to resolve the points of concern. In the event resolution was not possible, in that circumstance it would be in the public interest to refer the complaint for investigation.

## **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 determined to seek mediation between the parties before referring the complaint for investigation.**

### **6 Review of an Assessment Decision: Reference COC127052**

#### **Preamble**

A complaint was submitted by Jon Martin regarding the alleged conduct of Cllr Ben Hamilton, Poulshot Parish Council. The complainant alleges that during the parish council meeting on 3 September 2019 the Subject Member failed to declare an interest in Planning Application 19/07518/FUL (Land at Barley Hill Lane) concerning a property in proximity to his own, which was being considered by the council. It is alleged this is in breach of paragraph 10 of the Poulshot Parish Council Code of Conduct which required such a declaration

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the member was and remains a member of Poulshot 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 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, the response of the Subject Member, the initial assessment decision of the Representative of the Monitoring Officer to refer the matter for investigation and the request for a review of that decision by the Complainant.

The Sub-Committee also considered a verbal statement from the Complainant at the Review Sub-Committee meeting on 7 February 2020. The Subject Member was not in attendance.

#### **Conclusion**

The Sub-Committee noted that a failure to properly declare an interest was a serious allegation. There was also uncertainty for many elected members regarding at what stage proximity of their own interests to, for example, a planning application, rendered the matter disclosable. Perception of a reasonable observer was also an important consideration when assessing matters of actual or apparent bias.

Given these issues, the Sub-Committee agreed with the reasoning of the initial assessment decision that further examination would be in the interests of both parties to clarify the situation following an investigation.

### **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 determined to refer the complaint for investigation.**

## **7 Review of Assessment Decisions: Reference COC126486 and COC126543**

### **Preamble**

Separate complaints had been submitted by Maxine Nutting and Lisa Taylor regarding the alleged conduct of Cllr Mary Douglas of Wiltshire Council. The complainant alleges that at a Salisbury Area Board meeting the Subject Member has failed to comply with Wiltshire Council's Code of Conduct, when she failed to promote high standards in her public office by:

- Not acting in the public interest when she expressed her personal views on the Lesbian, Gay Bisexual, transgender and questioning (LGTBQ+) community to justify her position in not supporting the provision of a grant for the Pride March in Salisbury during 2020;
- Failed to have regard to the Public Sector Equality Duties when she expressed her personal views in regard to the LGTBQ+ community;
- Failed to consider the needs of different groups within her constituency.

And in so doing allegedly contravened the Code by failing to have regard to the principles of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership as required by the Code.

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the 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 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, the response of the Subject Member, the initial assessment decision of the Deputy Monitoring Officer to refer the matter for investigation and the request for a review of that decision by the Subject Member. Neither party was in attendance at the meeting.

The two complaints were considered concurrently as they related to the same events.

### Conclusion

The complaint related to comments allegedly made by the Subject Member at a meeting of the Area Board, which were then reported in local media along with references to past alleged comments which had also received media attention. The main issues related to the Subject Member's right to freedom of expression as well as the requirement to adhere to Public Sector Equality Duties, and the balance between these issues.

The Sub-Committee noted from the materials including the request for a review, that there was little dispute over the precise wording of what was allegedly stated at the meeting of the Area Board itself, although alleged historical statements had also been raised during the course of the complaint. It noted that there could be difficulty establishing further details regarding what was allegedly said at the meeting.

On balance, the Sub-Committee agreed with the reasoning of the Deputy Monitoring Officer that it was in the interests of both parties that the matter be referred for investigation to allow full consideration of the facts and any appropriate context for alleged statements, which could if proven amount to a breach of the Code.

### 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 determined to refer the complaint for investigation.**

## 8 Review of an Assessment Decision: Reference COC126525

### Preamble

A complaint was received from Raymond Bowler regarding the alleged conduct of Cllr Mike Hewitt of Wiltshire Council.

The Complainant stated that he had been in correspondence with the Subject Member since 11 October 2019 regarding surface water flooding from the public highway onto his neighbour's land, which then affected land on his boundary. The Complainant had also raised this issue via the Council's website at the beginning of September.

The Complainant stated that remedial work began on 8 October, although, as at the date of his complaint, it was still listed as 'referred'.

The Subject Member responded to the Complainant acknowledging that the work was underway and added that the Complainant should contact him if he had any further concerns. The Complainant contacted the Subject Member

again to inform him that, as at 20 October, the complaint was still marked as 'referred'. He followed that up with a chasing email on 26 October, requesting a reply. The Subject Member responded on 27 October stating that he had forwarded the details to the Council's Drainage Engineer.

The Complainant's issue was that the Subject Member did not provide him with information following the notification on 3 September and that he failed to reply to the Complainant's email of 20 October.

The Complainant considers that, by these failings, the Subject Member failed to show leadership and accountability as required by the Wiltshire Council Code of Conduct

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the member was and remains a member of Wiltshire, 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 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, the response of the Subject Member, the initial assessment decision of the Representative of the Monitoring Officer to take no further action, and the request for a review by the Complainant.

The Sub-Committee also considered a written statement from the Complainant at the Review Sub-Committee meeting on 7 February 2020. Neither party was in attendance.

### Conclusion

The Complainant had raised their dissatisfaction with a lack of response from the Subject Member in relation to a further email not referenced in the initial assessment decision as well as what they considered inappropriate comments made by an officer when logging the complaint.

The Sub-Committee considered there was no justification to overturn the initial assessment decision. A failure to respond to emails, even if discourteous, would not even if proven be a matter which rose to the level of a breach of the Code of Conduct. Comments regarding the administrative processing of the complaint also had no bearing on assessing whether the alleged matters amounted to a potential breach of the Code.

### 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 determined to take no further action in respect of the complaint.**

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

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