

Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 10 FEBRUARY 2022 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Ernie Clark (Vice-Chairman),
Cllr Richard Britton, Cllr Sam Pearce-Kearney and Cllr Trevor Carbin (Substitute)
Mrs Julie Philips (non-voting)

Also Present:

Lisa Alexander – Democratic Services
Frank Cain – Head of Legal Services
Maria Doherty – Head of Democracy & Governance & Deputy MO
Tony Drew – Independent Person
Damian Kearney – Independent Person
Henry Powell (remotely) – Democracy & Complaints Manager
Subject Member CoC137643

37 **Apologies**

Apologies were received from:

- Cllr Gordon King, who was substituted by Cllr Trevor Carbin

38 **Minutes of the Previous Meeting**

The minutes of the meeting held on 25 November 2021 were presented for consideration, and it was,

Resolved

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

39 **Declarations of Interest**

There were no declarations.

40 **Meeting Procedure and Assessment Criteria**

The meeting procedure and assessment criteria for the meeting were noted.

41 **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 41-46, 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.

42 **Assessment of Complaint: COC137643**

Preamble

A complaint had been made by Cllr Iain Wallis (The Complainant) of Devizes Town Council against Councillor Edward East (The Subject Member), also of Devizes Town Council.

The allegation was that the Subject Member had used his official role to confer a disadvantage to the Complainant in that:

- a) That the Subject Member refused to allow the Complainant to speak during Town Council Meetings on three separate occasions, the most recent being during the meeting of the Town Council on the 4th January 2022; and
- b) That the Subject Member stated to the Complainant his "Contribution has no value" during the meeting of the Town Council on the 4th January 2022.

Assessment

In assessing 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 Devizes Town Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during 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. 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.

Discussion

The Sub-Committee noted that the various allegations arose out of the council's review of its Social Media Policy.

The Sub-Committee also noted that due to the recent advancement and regular use of Social Media sites both locally and globally, many Councils were currently reviewing Policies to bring them in line with current usage and ways of working and that the review was not a result of an individual incident or members actions.

The Sub-Committee further noted that the Subject Member and the Complainant represented different political parties on the Town Council and therefore there was likely to be differing viewpoints as to why actions may or may not be taken by the other.

The Sub-Committee also considered the comprehensive assessment provided by the Independent Person, including publicly available details relating to a local Social Media site for the Devizes area which it was reported that the Complainant was the administrator.

The Sub-Committee considered the allegations relating to the Subject Member, in his role as Chairman, preventing the Complainant, who was not a committee member, from speaking at the Community and Civic Resources (CCR) Committee meeting on 4 January 2022. The Sub-Committee noted that all Devizes Town Council Members, not on the CCR Committee were able to submit comments on the draft Policy ahead of the meeting, and were in addition invited at the meeting, to submit comments on the draft policy to the Chairman for consideration by the working group.

The Sub-Committee further considered the background and response of the Subject Member to the allegations and noted that the Subject Members intention to send the draft Policy back to a working group for further review, and his interpretation of Standing Orders relating to speakers at the meeting, had steered his initial decision not to take comments from those in attendance, however, it was also noted that the Complainant had then been allowed to make a brief statement to the Committee.

The Sub-Committee noted that there was no direct evidence to support the allegations that there had been other occasions where the complainant had been stopped from speaking, and that the timeframe of such other alleged incidents would fall outside of the time frame prescribed under the arrangements for dealing with Code of Conduct complaints adopted by the Council. Therefore, the Sub-Committee determined that it was not able to include those elements in its considerations.

The Sub-Committee determined that the actions did not reach the threshold to amount to a breach of the Code of Conduct and therefore there was no justification for referring the complaint for investigation and therefore determined that no further action should be taken on the complaint.

Conclusion

The Sub-Committee noted that the behaviour appeared to arise out of a historic clash of styles and personalities between the Complainant and the Subject Member.

The Sub-Committee concluded that the alleged behaviour would not amount to a breach, and that it was not appropriate under the assessment criteria to refer the matter for investigation and therefore there should be no further action on the complaint.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

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 on the complaint.

43 **Assessment of Complaint CoC137460**

Preamble

A complaint had been made by Mr Michael Glover (The Complainant) against Councillor Gary Rowitt (The Subject Member), of Dinton Parish Council.

The allegation was that the Subject Member had, in chairing the meeting, “shouted him down” when the Complainant was attempting to correct the Subject Member’s response to the questions he had asked under Public Participation.

The Complainant also alleged that this denied him the permitted three minutes speaking time.

As a result of this behaviour, it was alleged the Subject Member was in breach of the following paragraphs of the Code of Conduct:

- 2.1 I do not bully any person.
- 5.1 I do not bring my role or local authority into disrepute

The Complainant also alleged that the Subject Member had failed to adhere to the council’s Financial Regulations. However, this was an internal parish council matter and was not dealt with as part of the complaint.

Assessment

In assessing 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 Dinton Parish Council, that a copy of the relevant Code of Conduct was

provided for the assessment, and that they were acting in their capacity as a Member during 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. 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.

Discussion

The Sub-Committee noted the background to and detail of the allegations in relation to the actions of the Subject Member, in his role of Chairman of Dinton parish council at the meeting held on 13 December 2021.

The Sub-Committee considered the input by the Independent Person.

The Sub-Committee considered the timings which were recorded in the minutes of the meeting, in relation to the period the Complainant was present and spoke for when he read his statement, of which a copy had been provided. It was noted that once a speaker had read a statement, whether or not the whole 3-minute time allowance had been used up, that ended their right to address the Committee. There was no right for members of the public attending the meeting to subsequently interrupt the meeting.

The Sub-Committee considered the allegations relating to the Subject Member raising his voice at the meeting and noted that the role of a chairman did require him to maintain order during periods of disruption and on occasions this may involve a chairperson having to raise their voice to allow themselves to be heard over any disruption occurring in the meeting.

The Sub-Committee also considered whether it would be in the public interest to investigate the matter in relation to a possible standards breach and agreed that as the Subject Members actions as alleged, would not amount to a breach of the code of conduct, an investigation was not warranted.

Conclusion

The Sub-Committee noted that the behaviour appeared to arise out of a historic clash of personalities between the Complainant who had previously been involved with the Emergency Planning work on behalf of the parish council and the Subject Member.

The Sub-Committee noted that the Subject Member as Chairman of a council meeting was required to keep order during periods of disruption and that on occasion raising his voice would be necessary to be heard over the raised voices of others in attendance.

The Sub-Committee noted that the 3-minute time slot permitted for registered speakers was actually 'up to' 3 minutes and if the entire 3 minutes was not used during the reading of the statement then the remainder was not available to be

used to come back for a second go to answer or ask further questions of the Committee. Therefore, as the statement was read in its entirety, the Subject Member, as chair, was entitled to decline to give the Complainant further speaking time and also to bring the meeting back to order.

The Sub-Committee therefore found that the alleged behaviour, if proved, would not amount to a breach of the Code and determined to take no further action.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

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 on the complaint.

44 **Update on Complaints - CoC128512, CoC128671 & CoC128825**

The Sub-Committee received an update from the Head of Legal Services, on complaints CoC128512, CoC128671 and CoC128825 and it was,

Resolved:

To note the update on COC128512, COC128671 and COC128825 and to receive further updates on the agreed Alternative Resolution when available.

45 **Update on Complaint - CoC131319**

The Sub-Committee received an update on Complaint CoC131319, from the Head of Legal Services.

During the discussion on the decision of the Monitoring Officer, the Sub-Committee questioned the level of interest that the Subject Member had with regards to the matter being discussed at the council meeting in question.

The Sub-Committee also noted that the Subject Member, although as stated in the update, was no longer a member of the Salisbury City Council (SCC), did still remain a member of Wiltshire Council and therefore still held a position of public office. Discussion around the public perception of the reasons for the decision on the complaint, raised some concern.

The Sub-Committee asked the Head of Legal Services to clarify whether there were options available to them, other than to note the update, should they not agree with the decision.

The Head of Legal Services clarified that the investigation which had been carried out had determined that the level of interest the Subject Member had was a personal interest and that despite the interest not being a pecuniary interest, it should have been declared by the Subject Member for openness.

The Head of Legal Services then identified that the decision of the Monitoring Officer had been based on a recent High Court decision where the Judge had ruled that as the Subject Member had ceased to be a member of a council, the complaint would stop.

The Sub-Committee queried the criteria, in particular the option of 'exceptional circumstances' as set out at 3.1 c:

- That the member remains a member of the relevant council, or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint.

The Head of Legal Services noted that in light of new case law, the criteria may need to be reviewed and that he would take the matter back to the Monitoring Officer for consideration.

It was,

Resolved;

To note the update on Complaint COC131319.

(Duration of meeting: 10.30 - 11.16 am)

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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