

## **DECISION NOTICE**

### **BREACH OF THE CODE OF CONDUCT – SANCTIONS IMPOSED**

**Wiltshire Council Reference No: WC 24/09**

**Subject Member**

Councillor Paul Evans – Tidworth Town Council

**Complainant**

Councillor David Sherlock – Tidworth Town Council

**Hearing Sub-Committee Membership**

Mr Michael Cronin, Chairman (Independent)

Councillor Malcolm Hewson (Wiltshire Council)

His Hon David MacLaren Webster QC (Town/Parish Council)

**Monitoring Officer / Legal Adviser**

Mr Ian Gibbons

**Investigating Officer**

Mrs Marie Lindsay

**Clerk**

Miss Janice Green

### **Complaint**

On 23 June 2009 the Monitoring Officer of Wiltshire Council received a complaint from Councillor David Sherlock of Tidworth Town Council, regarding the conduct of Councillor Paul Evans, a member of Tidworth Town Council.

The complaint alleged that at a meeting of Tidworth Town Council on 2 June 2009, Councillor Evans behaved in such a manner as to bring his office or authority into disrepute and failed to treat others, including the complainant, with respect. It was alleged that Councillor Evans carried out an abusive and offensive verbal tirade towards other council members in the presence of the press and public, resulting in the meeting ultimately being suspended.

The complainant alleged that Councillor Evans had breached paragraphs 3(1) and 5 of the Model Code of Conduct for Members, adopted by Tidworth Town Council:

- 3(1) – You must treat others with respect.
- 5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

The complaint was assessed by the Standards Assessment Sub-Committee of Wiltshire Council on 7 July 2009, who referred the complaint to the Monitoring Officer for investigation.

The Monitoring Officer delegated his investigatory powers to Mrs Marie Lindsay, Ethical Governance Officer, pursuant to section 82A of the Local Government Act 2000. The Investigator found that there had been breaches of paragraphs 3(1) and 5 of the Code of Conduct.

The Investigator's report, dated 20 January 2010, went before the Standards Consideration Sub-Committee on 9 February 2010, who resolved that the matter should be referred to the Hearing Sub-Committee for determination.

A hearing was therefore conducted by the Hearing Sub-Committee of the Standards Committee of Wiltshire Council on 12 April 2010 in accordance with Regulations 18 and 19 of the Standards Committee (England) Regulations 2008 and the Council's Procedure for Determination of Complaints.

### **Summary of Evidence Considered and Representations Made**

The Sub-Committee considered the following evidence and representations:

1. The written complaint;
2. The Investigator's report dated 20 January 2010, which contained evidence from interviews conducted with the subject member, the complainant and a number of witnesses, as well as copies of the relevant documents, including minutes of the relevant meetings, correspondence from Wiltshire Association of Local Councils regarding the voting procedure and a newspaper article from the Andover Advertiser.
3. Representations at each stage from the subject member and the Investigating Officer.
4. Oral evidence from Councillor Evans and the following witnesses:
  - Councillor Sherlock (complainant)
  - Councillor Daggar (chairman)
  - Councillor Wildman
  - Councillor Connolly
  - Councillor Miles

## **DECISION**

### **Findings of Fact**

The Sub-Committee made the following findings of fact:

- The background facts were accepted as set out at pages 20 - 21 of the Investigators Report, Summary of Material Facts, paragraphs 6.1 - 6.8.
- Councillor Evans arrived at the Tidworth Town Council meeting on 2<sup>nd</sup> June 2009, deeply frustrated by events following the election of the Chairman at the meeting in May.
- At the meeting on 2<sup>nd</sup> June Councillor Evans admitted accusing the Council of being a “waste of time” and “a shambles”.
- Councillor Evans repeatedly refused to sit down when asked to do so by the Chairman, or to stop speaking when asked.
- Councillor Evans acknowledged in his own statement that he did “push things to its limit” and that his behaviour was “quite forceful” and “fiery”.
- Councillor Evans accepted that he made comments about the conduct of other members and that he was getting a little aggressive. This prompted the Chairman’s adjournment of the meeting.
- In the adjournment, during an altercation with Councillor Sherlock at the hatch, Councillor Evans admitted that he told Councillor Sherlock to “piss off and sling your hook”.
- Councillor Evans made allegations that Councillor Wildman was only on the Council to promote his own interests.
- This argument at the hatch could have been overheard by the press and public.
- A letter of apology was sent by Councillor Evans to all Council Members on 19<sup>th</sup> June 2009, on the advice and with the help of Councillor Connolly.
- In his own letter of apology Councillor Evans states that he was ashamed that his conduct fell below the conduct that was acceptable for a Councillor and that there will never be an excuse for his unreasonable behaviour.

These findings of fact were then used as the basis for the Sub-Committee’s consideration on the question of breach and sanction as set out below. The Sub-Committee also had regard to relevant guidance from Standards for England.

## **BREACH OF THE CODE OF CONDUCT**

The Sub-Committee concluded that Councillor Evans was acting as a representative of the Council and, therefore, in his official capacity during the adjournment of the meeting when the altercation with Councillor Sherlock took place.

### **Paragraph 3(1) - You must treat others with respect.**

The Sub-Committee found that Councillor Evans had failed to treat others with respect in breach of paragraph 3(1) of the Code. Councillor Evans' behaviour had lowered the public's expectation and confidence in him as an elected representative.

- **Paragraph 5 - You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.**

Whilst the Sub-Committee found that Councillor Evans' behaviour did not bring Tidworth Town Council as a whole into disrepute, the Sub-Committee decided that his persistent misbehaviour brought his office of councillor into disrepute under paragraph 5 of the Code.

## **SANCTION**

After hearing representations from the parties the Sub-Committee decided to censure Councillor Evans in respect of his conduct resulting in the above breaches of the Code, and, in addition, imposed a requirement to undertake one to one training on the Code of Conduct, to be arranged by the Monitoring Officer at the earliest opportunity.

### **Reasons for Decision**

In making their decision on sanctions, the Sub-Committee took into consideration the following factors:

- the need for the decision to be reasonable and proportionate;
- the results and the potential results of Councillor Evans' conduct;
- the seriousness of the breaches of the Code;
- the fact of Councillor Evans' apology; the Sub-Committee confirmed that Councillor Evans was fully entitled to take advice on this;
- the fact that there had been no reports of previous misconduct and that there had been compliance with the Code since the date of this incident;
- the possible impact of Councillor Evans ill health at this time;

- the need for the decision of the Sub-Committee to foster public confidence in local government.
- Councillor Evans' behaviour was, by his own admission, unreasonable and fell far short of what would be expected of a Councillor.

### **Recommendation**

The Sub-Committee recommended that Tidworth Town Council should arrange training for all Councillors on the Code of Conduct, voting procedures and the conduct of meetings. This may assist in avoiding similar problems in the future.

### **Right of Appeal**

A member subject to a standards committee finding may apply in writing to the President of the First-tier Tribunal (Local Government Standards in England) for permission to appeal against the finding.

The President must receive the member's written application within 21 days of the member receiving notice of the Standards Committee's decision.

This decision notice is sent to the complainant, the subject member, Tidworth Town Council and Standards for England