

STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 18 FEBRUARY 2016 AT NORTH WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Julian Johnson (Chairman), Cllr Sheila Parker, Cllr Bob Jones MBE and Miss Pam Turner(non-voting)

Also Present:

Mr Colin Malcolm (Independent Person), Mr Paul Taylor (Senior Solicitor on behalf of the Monitoring Officer)

1 **Election of Chairman**

Councillor Julian Johnson was elected for this meeting only.

2 **Declarations of Interest**

There were no declarations.

3 **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 4 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

4 **Review of an Assessment Decision: Reference WC-ENQ00124**

The Sub-Committee considered complaint WC-ENQ00124 from complainant Ms Alison Cross-Jones against Councillor Simon Killane of Wiltshire Council, in accordance with the approved arrangements adopted by Council on 26 June 2012. It was alleged that Councillor Killane posted to his website statements that were false and damaging about the complainant and as a result breached the Code of Conduct

Preamble

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. The Sub-Committee accepted the reasoning of the Deputy Monitoring Officer in his Initial Assessment that the blog post on the subject member's personal website, due to content and framing, was such that he was acting in his capacity as a councillor in making the post and therefore was subject to the Code of Conduct. They therefore needed to consider if the alleged actions of the subject member would amount to a breach of that Code, including failing to uphold the Nolan Principles.

It was noted that the Decision Notice produced by the Deputy Monitoring Officer had provided a lengthy and detailed summation of the law and his interpretation of the facts of the complaint. He had concluded that the comments, while unwise and likely to escalate the situation further, would not amount to a breach of the Code. In reaching this conclusion he had had regard to the nature of the political debate already occurring publicly within the community. He had considered whether the emotive language utilized by the subject member in his blog post had, in the context of that ongoing and connected wider political debate which had involved the complainant, progressed into the realm of a personal attack as opposed to retaining the enhanced legal protections on free speech afforded to political commentary.

Additionally, the Deputy Monitoring Officer had clarified that even if his assessment that the words did not amount to a breach of the Code was considered to be incorrect, he would still have determined that no further action should be taken in accordance with paragraph 5 of the assessment criteria adopted by the council, which states:

A complaint will not be referred for investigation if, on the available information, it appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.

The Sub-Committee considered the arguments of the complainant in her request for a review of the Initial Assessment. She had disputed the interpretation of the Deputy Monitoring Officer, in particular she felt that the wider context of historic complaints and allegations should not have been regarded as relevant to her current complaint, and that the comments of the subject member directed at her should not be considered as part of a political debate ongoing within Malmesbury.

Committee Discussion

Whilst the Sub-Committee agreed that the comments of the subject member were extremely unwise and provocative, after considerable assessment of the evidence as presented it was nevertheless satisfied that even if the comments did not amount to politically protected speech, the Deputy Monitoring Officer's reasoning was correct that given the multitude of competing, interrelated and persistent complaints and counter complaints involving the subject member and the complainant among others in the community, the latest incident and subsequent complaint could rightly be considered connected. The incident at the source of the latest complaint was itself a response to previous complaints,

and part of a series of wider accusations from all parties, much of which, if not all, was widely publicised within the community along with the identities of the key individuals.

It was therefore considered reasonable and appropriate to regard the latest complaint as, to some extent, forming part of that publicised debate about political leadership and personal conduct of the subject member when assessing the nature of and therefore level of protection of the comments of the subject member.

The Sub-Committee accepted that there were personal comments from the subject member included as part of the complaint. However, many of these comments related directly to his words and actions as a community representative, and were responses to those criticising his words and actions as such. The Sub-Committee therefore accepted the reasoning of the Deputy Monitoring Officer that these comments were properly considered as being in respect of political leadership. Whilst not all comments made on social media would necessarily be considered as relating to a member's political leadership role, in this specific case, it was accepted that the nature of the comments did relate to such a role.

Conclusion

The Committee were therefore satisfied with the determination that, even if it was felt the comments of the subject member were not afforded the enhanced protections of political speech, under paragraph 5 of the local assessment criteria it was not in the public interest to investigate the complaint further, for the reasons as set out by the Deputy Monitoring Officer and above.

The Sub-Committee was also wholly supportive of the recommendation of the Deputy Monitoring Officer that attempts be made to mediate with the affected parties, in order to seek some kind of end to the circular divisiveness currently impacting upon the political and communal effectiveness, and subsequently the reputation of, the Malmesbury community.

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 that no further action will be taken.

(Duration of meeting: 1200-1300)

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