

Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 16 SEPTEMBER 2020 AT ONLINE MEETING.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Ernie Clark (Vice-Chairman),
Cllr Richard Britton, Cllr Howard Greenman (Substitute) and Mr Richard Baxter

Also Present:

Stuart Middleton (Independent Person – COC130067, COC130173), Tony Drew
(Independent Person – COC128512, COC128671, COC128825), Complainant
COC128671, Complainant COC128828, Adrienne Westbrook (Complainant
COC130067), Frank Cain, (Head of Legal Services), Kieran Elliott (Senior Democratic
Services Officer)

18 **Apologies**

Apologies were received from Councillor Stuart Wheeler and Fred Westmoreland.

Councillor Westmoreland was substituted by Councillor Howard Greenman.

19 **Minutes of the Previous Meeting**

The minutes of the meeting held on 18 August 2020 were presented for consideration, and it was,

Resolved:

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

20 **Declarations of Interest**

Councillor Richard Britton declared a non-pecuniary interest by virtue of having a personal connection with the Subject Member in complaint COC130067. Councillor Britton took no part in the debate or vote on that item.

Councillor Howard Greenman declared a non-pecuniary interest in Complaint 130067 by virtue of having an acquaintance with the Subject Member. He confirmed that he did not believe the limited acquaintance would prevent him from considering the matter with an open mind, and took part in the debate and vote on that item.

21 **Meeting Procedure and Assessment Criteria**

The procedure and assessment criteria for the meeting were noted.

22 **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 Numbers 23 onwards, 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

23 **Assessment of Complaint: COC128512**

In considering complaint COC128512 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 the relevant 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, supporting information, and the report of the Monitoring Officer. The Sub-Committee also considered a written statement from the Subject Member provided at the meeting. Neither the Complainant nor Subject Member were in attendance.

After discussion, it was,

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 refer the complaint for investigation.

24 **Assessment of Complaint: COC128671**

In considering complaint COC128671 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 the relevant 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, supporting information, and the report of the Monitoring Officer. The Sub-Committee also considered a written statement from the Subject Member provided at the meeting. The Complainant was in attendance and spoke to their complaint.

After discussion, it was,

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 refer the complaint for investigation.

25 **Assessment of Complaint: COC128825**

In considering complaint COC128825 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 the relevant 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, supporting information, and the report of the Monitoring Officer. The Sub-Committee also considered a written statement from the Subject Member provided at the meeting. The Complainant was in attendance and spoke to their complaint.

After discussion, it was,

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 refer the complaint for investigation.

Note: As Complaints COC128512, COC128671, and COC128825 relate to the same Subject Member regarding the same events and main alleged facts, the

Sub-Committee considered it appropriate and more efficient that the complaints be investigated as one complaint investigation. Particular elements which related to one complaint and not another would be set out in any report.

This was agreed in accordance with Paragraph 11.1 of Protocol 11, which permits the Assessment Sub-Committee to depart from the standard arrangements if considered expedient to secure effective and fair consideration of any matter.

26 **Assessment of Complaint: COC129643**

Preamble

A complaint was received from Tracie Lawson (the Complainant) regarding the conduct of Councillor John Dalley of Rowde Parish Council (the Subject Member). It was alleged the Subject Member had breached the Code of Conduct by making accusations of racist behaviour toward another Member, as well as other antagonistic behaviour.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Rowde Parish Council, and that a copy of the relevant Code of Conduct was provided for the assessment.

The Sub-Committee were satisfied that the nature of the events was such that the Subject Member was acting in their capacity as a Member.

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.

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

The Sub-Committee also considered written statements from both parties provided at the Assessment Sub-Committee meeting on 16 September 2020. Neither party was in attendance.

Conclusion

The core of the complaint was that the Subject Member had accused the brother of the Complainant, also a Member of the parish council, of racist behaviour, which the Complainant maintains were unfounded and aggravated health problems of her brother, as well as being motivated by seeking to take over responsibility for the allotments operated by the Parish Council. The Subject Member states he became aware of allegedly racist comments and considered that these needed to be raised formally.

The Sub-Committee noted that the dispute between the parties was both serious in accusation and emotive language. It appeared from the responses that the dispute was escalating and causing continuing disruption, with additional allegations being made.

The Committee did not consider that the standards regime was the most appropriate forum for the attempted resolution of this matter, which it was felt may merely further exacerbate the tensions and disagreements between the parties to the detriment of the community. It noted that at one point the Subject Member had offered an apology for any distress caused to the brother of the Complainant in how the matter was raised at a council meeting.

Accordingly, and whether or not the allegations, if proven, were capable of being a breach of the Code, the Sub-Committee took the view that the complaint could reasonably and more appropriately be addressed by other means, such as mediation or another form of alternative resolution between the parties. This was not a comment on the seriousness of the alleged behaviour but reflected the view that alternative resolution was more appropriate in this instance.

Bearing in mind the public interest in the efficient use of resources, and its view that alternative resolution would be appropriate in this instance, the Sub-Committee resolved that there be no further formal action on the complaint.

After discussion, it was,

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 in respect of the complaint.

27 **Assessment of Complaint: COC130067**

Preamble

A complaint was received from Councillor Adrienne Westbrook of Melksham Town Council (the Complainant) regarding the conduct of Councillor Martin Pain of Melksham Town Council (the Subject Member). It was alleged the Subject Member had breached the Code of Conduct and not upheld or supported high standards in public office as a result of using council resources, namely the council's email platform, to attack the Complainant.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Melksham Town Council, and that a copy of the relevant Code of Conduct was provided for the assessment.

The Sub-Committee were satisfied that the nature of the discussions was such that the Subject Member was acting in their capacity as a Member.

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.

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

The Sub-Committee also considered a verbal statement from the Complainant provided at the Assessment Sub-Committee meeting on 16 September 2020. A brief written statement was provided from the Subject Member, who was not in attendance.

Conclusion

The complaint involved a series of emails from the Subject Member to others in the Town Council following comments made by the Complainant at a Town Council meeting, and how those comments had been reported in press accounts.

The Sub-Committee had regard to the high levels of protection afforded to free speech, and in particular political expression. From the submissions of both parties it was clear there was considerable political disagreement within the Town Council, and the Subject Member had, among other criticisms, been encouraging the resignation of the Complainant from the role of Deputy Leader as part of that political disagreement and debate.

The Sub-Committee did not consider that the allegations, even if proven, were capable of rising to the level of a breach of the Code. The Subject Member was entitled to hold and express a political view even if that view caused upset or disagreement, and the use of an official email to express that view to others on the same council was not an improper use of resources in itself. Although it had clearly caused some upset, nothing in the allegations suggested a level of excessive personal attack or bullying or intimidatory behaviour to justify a restriction of the right to free expression.

The Sub-Committee noted that management of a council's email systems was a matter for that council. However, it also noted that even in the event of a breach of a Code it could be difficult for any sanction to reasonably restrict the use an individual Member's email given the impact this might have on their ability to carry out their role as an elected Member.

After discussion, it was,

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 in respect of the complaint.

28 **Assessment of Complaint: COC130173**

Preamble

A complaint was received from Lance Allan (the Complainant) regarding the conduct of Councillor Antonio Piazza of Trowbridge Town Council (the Subject Member). It was alleged the Subject Member had breached the Code of Conduct and not upheld the Nolan principles of conduct in public life as required by the Code by making a series of untrue public comments which it was alleged attacked the integrity of council staff.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Trowbridge Town Council, and that a copy of the relevant Code of Conduct was provided for the assessment.

The Sub-Committee were satisfied that the nature of the discussions of council business was such that the Subject Member was acting in their capacity as a Member.

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.

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.

The Sub-Committee also considered a written statement from the complainant provided at the Assessment Sub-Committee meeting on 16 September 2020. Neither party was in attendance.

Conclusion

The complaint involved a series of critical comments on social media by the Subject Member regarding the policy and performance, in particular the financial policy and performance, of Trowbridge Town Council. The Complainant is the Town Clerk and Chief Executive of the Town Council.

The Complainant maintained that the comments by the Subject Member are untrue and amount to a personal attack on the integrity of council staff beyond simply challenging council policy and performance. The Subject Member felt their comments to be appropriate in challenging the Council, and that there was a campaign against him.

Without assessing the validity of any accusations regarding the financial situation of the Town Council, or defences of that situation, the Sub-Committee in assessing the submitted information considered that the Subject Member, correct or not, had been engaging in political activity in expressing an opinion. That opinion was able to be challenged both by political opponents or corrected on behalf of officials, where there were inaccuracies, in the same forum as which the statements were made or in other forums.

The Sub-Committee did not consider that the alleged statements, or their manner, rose to a level which was capable of being a breach of the Code, and therefore resolved that there be no further action in respect of the complaint.

Whilst it was possible for critical comments to rise to such a level, the views expressed within the complaint by the Subject Member appeared on the evidence submitted to be part of political debate regarding the council as a body, and had not risen to a level of excessive or unreasonable personal attack, or bullying or intimidatory behaviour in a way which would not promote or support high standards of conduct or the Nolan principles.

Whilst the accuracy of their views was disputed, the Subject Member had been open about the reasons for their views.

After discussion, it was,

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 in respect of the complaint.

(Duration of meeting: 3.05 - 4.45 pm)

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