

Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 11 FEBRUARY 2021 AT ONLINE MEETING.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Richard Britton, Cllr Fred Westmoreland, Cllr Stuart Wheeler and Mr Richard Baxter

Also Present:

Paul Barnett (Public Law and Compliance), Stuart Middleton (Independent Person), Lisa Moore (Democratic Services), Kieran Elliott (Democratic Services)

8 **Apologies**

Apologies were received from Councillor Ernie Clark and Mr Philip Gill MBE. Councillor Clark was substituted by Councillor Jon Hubbard.

9 **Minutes of the Previous Meeting**

The minutes of the meeting held on 21 January 2021 were presented for consideration, and it was,

Resolved:

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

10 **Declarations of Interest**

There were no declarations.

11 **Meeting Procedure and Assessment Criteria**

The meeting procedure and assessment criteria were noted.

12 **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 13 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.

13 **Assessment of Complaint: COC132261**

Preamble

A complaint was received from Michael Booley (the Complainant) regarding the conduct of Councillor Marliyn Ty (the Subject Member), a Member of Box Parish Council.

The complaint was centred around the publication of a Facebook post to a community site, which had been uploaded by the Complainant and detailed a photo of a Beefeater with a reference to 'taking the knee'. The Complainant stated that the Subject Member breached the Box Parish Council Code of Conduct when she removed the post from the site and thereafter not responded to messages.

It was alleged that as a result the Subject Member had breached the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership has also breached the relevant code under paragraphs 1, 2, 3 and 4.

The Subject Member contended that they were not acting in their capacity of a Parish Councillor, but instead as the administrator of a community run Facebook group, which was not political or affiliated with the parish council.

Discussion

The Sub-Committee were satisfied that although the complaint had been received beyond the 20 day period from when the complainant first became aware of the matters giving rise to complaint, as this was the result of approaches to other parties for resolution and to technological issues not the fault of the complainant, the complaint should be considered under Protocol 11.

It was not considered, however, that the initial tests of the assessment criteria had been met, in that the Sub-Committee considered that on the available evidence the Subject Member had not been acting in her capacity as a member of Box Parish Council at the time of the alleged actions, but as a member of the community in her capacity as an administrator of the Facebook site mentioned.

The Facebook site in question was an open community site, set up by the Box Parish Discussion Group, as opposed to a restricted site which a Parish Council or parish councillor might operate. It was identified that followers of the site were able to upload posts initially without any restrictions or control and that whilst members of the Parish Council had used the site on occasion in the past to comment on local matters as the complainant had noted, the site was not managed on behalf of the Parish Council, which had been further clarified on the site.

Accordingly, whilst the Subject Member might act in her capacity as a parish councillor on the site occasionally, this did not mean that every action as a site administrator was itself taken in that capacity.

The Sub-Committee therefore decided that as the Subject Member was not acting in her capacity as a Member of Box Parish Council in this instance, the Code of Conduct could not be applied, and therefore the Complaint was dismissed.

They did not consider the allegation of a failure to respond to communications, would itself rise to a level of a breach of the Code.

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 prior to the Assessment Sub-Committee meeting on 11 February 2021. Neither party was in attendance.

Conclusion

The Sub-Committee was not persuaded, on the basis of the submissions, that the alleged actions of the Subject Member were carried out in her capacity as a Parish Councillor and as such the Code of Conduct could not be applied.

Therefore, 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.

14 Assessment of Complaint: COC132602

Preamble

A complaint was received from Jennifer Cowley (The Complainant) regarding the conduct of Councillor Adrian Andrews (The Subject Member), a Member of Stanton St Quinton Parish Council.

The Complainant alleges that within a response submitted, by the subject member, to Wiltshire Council (rights of way and definitive map team) on 10 December 2020 in respect of a Village Green application the subject member has libelled the complainant and her siblings.

It was alleged that as a result of his actions, the Subject Member had breached

the Council's Code of Conduct by:

- a) not promoting or supporting high standards in his public office (localism Act 2011 and general principles), and/or
- b) Failing to have regard to the Nolan Principles and in particular integrity, honesty objectivity and Leadership.
- c) Behaved in such a way that a reasonable person would consider as disrespectful (Article 1).
- d) Behaved in such a way that a reasonable person would consider as bullying (Article 2)
- e) Sought to improperly confer a disadvantage on the complainant and his family (Article 3).
- f) Failed to use the resources of the Council in accordance with its requirements (Article 4).

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 Stanton St Quinton 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 various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the Code of Conduct and if so, what action would be required.

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 in advance of the Assessment Sub-Committee meeting. Neither party was in attendance.

The Complaint was considered alongside Complaints COC132602 and COC132720, which involved the same Subject Member and alleged facts.

The Sub-Committee noted that the complainant alleged that a libel had been committed against her by the Subject Member. Whilst it was not a matter for the Sub Committee to determine if a libel had occurred, it was for the Sub-Committee to consider whether, if the alleged circumstances giving rise to such a claim of libel were proven, these would amount to a breach of the Code of Conduct.

The Sub-Committee-considered the subsequent actions of the Subject Member following the alleged incidents, in that upon reflection he had acknowledged that some of his comments were ill-judged and had amended his Village Green submission by removing text and photographs which had caused upset. In addition, he had made a public apology at the meeting of the Parish Council on 13 January 2021, which was published in the minutes.

The Subject Member had therefore acknowledged his words and actions may have been inappropriate and issued a public apology, albeit that apology had been directed to only the complainant for this complaint, rather than all three complainants individually. The Sub-Committee noted the Subject Member had stated in response to the complaint that his apology was to 'the complainants (and anyone else affected)' and that this acknowledgement and apology would be publicly available through this decision notice.

The Sub-Committee noted that the Subject Member had already carried out actions that may have been requested upon the outcome of an Investigation or hearing, and therefore did not consider it was in the public interest to refer the matter for investigation

It was therefore,

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.

15 **Assessment of Complaint: COC132564**

Preamble

A complaint was received from Malcolm Reeves (The Complainant) regarding the conduct of Councillor Adrian Andrews (The Subject Member), a Member of Stanton St Quinton Parish Council.

The Complainant alleged that within a response submitted, by the subject member, to Wiltshire Council (rights of way and definitive map team) on 10 December 2020 in respect of a Village Green application the subject member, "put into the public domain and public record, and have distributed at the public expense, lies, untruths, and false information about him and his family. These lies amount to libel and harassment and incitement to hatred".

It was alleged that as a result of his actions, the Subject Member had breached the Council's Code of Conduct by:

- a) not promoting or supporting high standards in his public office (localism Act 2011 and general principles), and/or

- b) Failing to have regard to the Nolan Principles and in particular integrity, honesty objectivity and Leadership.
- c) Behaved in such a way that a reasonable person would consider as disrespectful (Article 1).
- d) Behaved in such a way that a reasonable person would consider as bullying (Article 2)
- e) Sought to improperly confer a disadvantage on the complainant and his family (Article 3).
- f) Failed to use the resources of the Council in accordance with its requirements (Article 4).

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 Stanton St Quinton 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 various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the Code of Conduct and if so, what action would be required.

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 in advance of the Assessment Sub-Committee meeting. Neither party was in attendance.

The Complaint was considered alongside Complaints COC132602 and COC132720, which involved the same Subject Member and alleged facts.

The Sub-Committee noted that the complainant alleged that a libel had been committed against him by the Subject Member. Whilst it was not a matter for the Sub Committee to determine if a libel had occurred, it was for the Sub-Committee to consider whether, if the alleged circumstances giving rise to such a claim of libel were proven, these would amount to a breach of the Code of Conduct.

The Sub-Committee considered the subsequent actions of the Subject Member following the alleged incidents, in that upon reflection he had acknowledged that some of his comments were ill-judged and had amended his Village Green submission by removing text and photographs which had caused upset. In

addition, he had made a public apology at the meeting of the Parish Council on 13 January 2021, which was published in the minutes.

The Subject Member had therefore acknowledged his words and actions may have been inappropriate and issued a public apology, albeit that apology had been directed to only one complainant, rather than all three complainants individually. The Sub-Committee also noted the Subject Member had stated in response to the complaint that his apology was to 'the complainants (and anyone else affected)' and that this acknowledgement and apology would be publicly available through this decision notice.

The Sub-Committee noted that the Subject Member had already carried out actions that may have been requested upon the outcome of an Investigation or hearing, and therefore did not consider it was in the public interest to refer the matter for investigation even if the alleged incident of libel was, if proven, considered to be a breach.

The Sub-Committee noted the complaint included a number of matters regarding the town or village green application process. However, this remained ongoing and they suggested that any concerns regarding it should be raised as part of that process and not within these proceedings. The Sub-Committee also noted allegations of illegal conduct raised in the complainant's statement which they indicated could be reported to the police in the first instance.

It was therefore,

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.

16 **Assessment of Complaint: COC132720**

Preamble

A complaint was received from James Reeves (The Complainant) regarding the conduct of Councillor Adrian Andrews (The Subject Member), a Member of Stanton St Quinton Parish Council.

The Complainant alleges that within a response submitted, by the subject member, to Wiltshire Council (rights of way and definitive map team) on 10 December 2020 in respect of a Village Green application the subject member has libelled the complainant and his siblings.

It was alleged that as a result of his actions, the Subject Member had breached the Council's Code of Conduct by:

- a) not promoting or supporting high standards in his public office (localism Act 2011 and general principles), and/or
- b) Failing to have regard to the Nolan Principles and in particular integrity, honesty objectivity and Leadership.
- c) Behaved in such a way that a reasonable person would consider as disrespectful (Article 1).
- d) Behaved in such a way that a reasonable person would consider as bullying (Article 2)
- e) Sought to improperly confer a disadvantage on the complainant and his family (Article 3).
- f) Failed to use the resources of the Council in accordance with its requirements (Article 4).

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 Stanton St Quinton 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 various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the Code of Conduct and if so, what action would be required.

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 in advance of the Assessment Sub-Committee meeting. Neither party was in attendance.

The Complaint was considered alongside Complaints COC132602 and COC132564, which involved the same Subject Member and alleged facts.

The Sub-Committee noted that the complainant alleged that a libel had been committed against him by the Subject Member. Whilst it was not a matter for the Sub Committee to determine if a libel had occurred, it was for the Sub-Committee to consider whether, if the alleged circumstances giving rise to such a claim of libel were proven, these would amount to a breach of the Code of Conduct.

The Sub-Committee-considered the subsequent actions of the Subject Member following the alleged incidents, in that upon reflection he had acknowledged that some of his comments were ill-judged and had amended his Village Green

submission by removing text and photographs which had caused upset. In addition, he had made a public apology at the meeting of the Parish Council on 13 January 2021, which was published in the minutes.

The Subject Member had therefore acknowledged his words and actions may have been inappropriate and issued a public apology, albeit that apology had been directed to only one complainant, rather than all three complainants individually. The Sub-Committee noted the Subject Member had stated in response to the complaint that his apology was to 'the complainants (and anyone else affected)' and that this acknowledgement and apology would be publicly available through the decision notice of the complaint.

The Sub-Committee noted that the Subject Member had already carried out actions that may have been requested upon the outcome of an Investigation or hearing, and therefore did not consider it was in the public interest to refer the matter for investigation even if the alleged incident of libel was, if proven, considered to be a breach.

It was therefore,

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: 10.00 - 10.55 am)

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

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