

Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 18 APRIL 2023 AT KENNET ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Ernie Clark (Vice-Chairman),
Cllr Richard Britton, Cllr Gordon King and Cllr Derek Walters (Substitute)

Also Present:

Cllr Paul Oatway QPM

105 **Apologies**

Apologies were received from:

- Cllr Sam Pearce-Kearney, who was substituted by Cllr Derek Walters
- Mrs Julie Phillips (non-voting)

106 **Minutes of the Previous Meeting**

The minutes of the meeting held on 16 March 2023 were presented for consideration, and it was,

Resolved:

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

107 **Declarations of Interest**

Councillor Richard Britton noted for openness that he was a member on the Pensions Committee, of which the Subject Member for complaint COC144807 was also a member. As this did not constitute an Interest, Councillor Britton took part in the consideration and vote on this complaint.

Councillor Gordon King also noted that he was a member of the Pensions Committee and that he had attended the meeting of the Strategic Planning Committee as a member of the public, referred to in complaint COC144807. As these declarations did not constitute an Interest, Councillor King took part in the consideration and vote on this complaint.

Councillor Ernie Clark noted that he was a member of the Strategic Planning Committee and was in attendance at the meeting referred to in complaint COC144807. As there was scope for other members of the Strategic Planning Committee to be called as witnesses should Complaint be referred for

Investigation, Councillor Clark did not take part in the discussion or the vote on this complaint.

108 **Meeting Procedure and Assessment Criteria**

The procedure and criteria were noted.

109 **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 53 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

110 **Investigation of Complaint COC142188**

The original complaint had two parts, only one part of which was sent for Investigation. This related to the Complainant's allegation that the Subject Member participated in the discussion of a planning application at a Council meeting on 27 September 2022 in which she had a pecuniary interest.

The Complainant had not specified which sections of the Council's Code of Conduct they believed to have been breached. However, the report suggested the Sub-Committee consider the following:

- a) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
- b) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures.
- c) You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Preamble

The complaint was initially assessed on 15 December 2022 where it was determined to refer for investigation only one part of the complaint, that relating to declarations of interest.

In consultation with an Independent Person, the Monitoring Officer considered the Investigation report and determined to recommend to the Sub-Committee that no further action be taken in respect of the complaint.

In reaching its decision, the Sub-Committee took into account the Investigating Officer's report and supporting documentation, which included the original complaint, the response of the Subject Member, the initial assessment decision, other evidence provided during the investigation, and the recommendation of the Monitoring Officer to take no further action.

The Sub-Committee also considered a written statement from the Subject Member, and the Complainant who were not in attendance.

Discussion

The complaint involved alleged actions by the Subject Member relating to a declaration of interest connected to the Subject Member's home address.

The Investigation report found that the clerk of the council had invited the Subject Member to take part in training on the code of conduct after being elected as a member of the council, though she did not remember this

The planning application site discussed by the council was near the home address of the Subject Member.

Conclusion

On balance the Sub-Committee agreed with the recommendation of the Monitoring Officer that it was not in the public interest to take any further action in respect of the complaint.

The Subject Member's property was a Disclosable Pecuniary Interest, however, the property was not itself the matter to be discussed at the meeting. Therefore, the Investigation report concluded that, as a consequence, the restrictions regarding Disclosable Pecuniary Interests contained in the Code of Conduct and Section 31 of the Localism Act 2011 did not apply in this case. The Sub-Committee further noted that the Council's Code of Conduct contained no restrictions on councillors in relation to other forms of interest.

The Sub-Committee agreed that whether or not training is undertaken following elections, it is advisable for councils to provide a regular and comprehensive training programme on the code of conduct for its Members.

The Sub-Committee further recommended that members of the council attend the next Positive Conduct, Positive Democracy webinar to be held by Wiltshire Council, which will provide guidance on registering and declaring interests.

In summary, the Sub-Committee was satisfied with the recommendation of the Monitoring Officer and that the Investigation conducted into the complaint was sound. It therefore determined that no further action should be taken in respect of the complaint, but felt it was important to make the comments above.

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.

111 **Assessment of Complaint: COC144807**

A complaint was submitted by Mr Eaton, the Complainant, regarding the conduct of Councillor Christopher Newbury, the Subject Member, of Wiltshire Council. The complaint related to the alleged actions of the Subject Member at a Strategic Planning Committee meeting on 2 March 2023, where he was said to have participated in the discussion of a planning application after he had declared that one of the landowners for the application was a friend of his.

The Complainant believes that, through these actions, the Subject Member breached the following sections of the Code:

- Impartiality of the officers of the council

However, as set out in the report, the Sub-Committee also considered the following:

I register and disclose my interests.

Preamble

The Sub-Committee was satisfied the initial tests of the assessment criteria had been met, in that the Subject Member was and remains a member of Wiltshire 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 the 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 the written statements of the Subject Member and the Complainant, who were not present at the meeting.

Discussion

The Complaint relates to a meeting of the Council's Strategic Planning Committee on 2 March 2023. The complainant alleges that partway through the discussion of a planning application, the Subject Member declared that he was a friend of one of the landowners and would withdraw from the debate, but then continued to comment and whisper to other participants.

The Subject Member in his response stated that he discovered the name of the landowner having checked online during the meeting.

The Subject Member explained that he told the Chairman of his acquaintance with the landowner in the interests of transparency, however, he did not consider that the friendship was such that it required him to withdraw from the meeting during consideration of the application.

The Subject Member confirms that he did discuss the application further during the meeting as he had not withdrawn, or offered to withdraw, from the meeting.

As part of the further information provided by the Subject Member, he advised that following the meeting, through additional research using the Land Registry, he established that the land was misreported on the application form and does not in fact belong to the friend.

Conclusion

The Sub-Committee noted it had viewed the recording of the Strategic Planning Committee meeting and agreed that the Subject Member had asked for it to be minuted that one of the landowners was a friend of his. The Subject Member had stated that, if he had intended to vote in favour of the application, he would have withdrawn, but as he was speaking against the application, he did not feel he needed to withdraw.

The Sub-Committee felt that a level of confusion may have arisen due to comments made by the meeting Chairman in relation to the Subject Member needing to withdraw from the meeting to attend a medical appointment. It was further noted that the Subject Member was not challenged at the meeting on his declaration.

The Sub-Committee considered the information provided under paragraphs 24 and 25 of the report setting out guidance on the code of conduct in relation to declaring an interest where a matter either directly relates to or merely affects a close associate. The Sub-Committee noted the Subject Member's statement that he did not consider the friend in question to represent a "close associate".

The Sub-Committee noted the Subject Member's statement that, having looked into the matter following receipt of the complaint, he had established that the land in question had in fact been sold by the friend some years ago. The Sub-Committee also noted the Complainant's statement that they were prepared to withdraw the complaint if this change of ownership was correct. The Sub-Committee agreed that the allegations still required consideration because the Subject Member had believed the land to be owned by their friend at the time of the Strategic Planning Committee meeting.

The Sub-Committee agreed that on the basis of the information available, if proven, the alleged actions of the Subject Member were unlikely to represent a breach of the relevant Code of Conduct.

The Sub-Committee therefore resolved to take no further action in respect of the complaint.

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.

112 **Assessment of Complaint: COC144873**

In considering 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 Redlynch Parish Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they could have represented themselves as 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. 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 and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered written responses/statements from the Subject Member and the Complainant provided at the Assessment Sub-Committee meeting as neither party was 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 to the Monitoring Officer for Investigation.

(Duration of meeting: 2.00 - 3.30 pm)

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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