

STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 15 JUNE 2016 AT THE WEST WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Desna Allen, Cllr Dennis Drewett, Mr John Scragg(non-voting) and Cllr John Smale

Also Present:

Caroline Baynes (Independent Person), Libby Beale (Senior Democratic Services Officer), Kieran Elliott (Senior Democratic Services Officer) and Paul Taylor (Senior Solicitor)

10 **Election of Chairman**

Resolved:

To elect Councillor Desna Allen as Chairman for this meeting only.

11 **Declarations of Interest**

There were no declarations.

12 **Meeting Procedure and Assessment Criteria**

The procedure for the meeting and assessment criteria were noted.

13 **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 Item Numbers 4-5 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

14 **Review of an Assessment Decision: WC-ENQ00140-00147**

The Sub-Committee considered a complaint against all the members of Wilcot and Huish with Oare Parish Council who it was alleged by their conduct raising concerns around the complainants had breached their Code of Conduct. This was alleged to be because they had failed to promote and maintain high standards of behaviour, failed to uphold the Nolan principles, failed to show respect and failed to use the resources of the council in accordance with its requirements.

The Sub-Committee went through the initial tests required by the local assessment criteria, and agreed with the assessment of the Deputy Monitoring Officer that the complaint related to the subject members, that they were in office at the time of the alleged incident, and were acting in their capacities as councillors. They therefore then had to determine whether the remaining assessment criteria were met and, if so, whether the matters alleged in the complaint were, if proven, capable of breaching the Code of Conduct of the Parish Council.

In reaching its decision the Sub-Committee relied upon the original complaint and supporting information, the response of the subject members, the initial assessment and the additional information submitted by the Complainants in their request for a review of the initial decision to take no further action. They also took into account the comments made by the complainants and the three subject members (Dawn Wilson, Richard Fleet and Nicky Fleet) who attended the review sub-committee meeting.

As detailed by the Deputy Monitoring Officer, paragraph 3.1 of the local assessment criteria requires that a complaint against a member must be made within 20 days of the date on which the complainant became aware of the matter giving rise to the complaint. The principal complaint related to comments made by the subject members at the meeting of the Parish Council on 26 May 2015, although reference was also made to discussion of related issues at other meetings on 5 August 2015, 10 November 2015 and 14 January 2016. The references in the complaint were, therefore, to actions or comments made that occurred (and which the complainants were aware of) more than 20 working days before the complaint was submitted.

The Sub-Committee therefore accepted the reasoning of the Deputy Monitoring Officer that the complaint was required to be dismissed due to being submitted out of time.

However, notwithstanding its decision to dismiss the complaint for the reason stated above, for the avoidance of doubt the Sub-Committee decided to assess the complaint to address how it would have determined it had it been submitted within the required timescales.

From the submissions of all parties it was apparent there were ongoing disputes between the complainants and the Parish Council in relation to alleged breaches of planning conditions at the complainants' publican business. The existence of any breaches was strongly disputed by the complainants, who alleged in turn that the behaviour of the subject members in the manner and repetition of raising concerns without substance, in their view, was conduct which was in breach of the relevant Code of Conduct, and in particular the seven Nolan Principles on standards in public life.

The issue therefore came down to whether, in raising and discussing the concerns regarding the complainants at a public parish council meeting and subsequently publishing minutes of those discussions, the subject members' behaviour was in breach of the Code. It was not within the remit of the Sub-Committee or the standards regime to determine the veracity of any allegations of planning breaches.

It was felt that while the complainants were in dispute with the Parish Council over the number and provenance of alleged concerns regarding their business, the existence of such concerns, whether they were valid or not, would be a relevant topic to be raised and discussed at a parish council meeting. The Sub-Committee therefore had to consider if the subject members through specific behaviours had breached the Code when raising the topic. The Sub-Committee could not consider the merits of any actual resolution of the parish council, as that was not a code of conduct issue.

After consideration, the Sub-Committee determined that on the evidence as presented the decision to discuss the alleged breaches, and thus the requirement to publish minutes relating them, in open session, was a procedural matter not a code of conduct matter. While the complainants were understandably aggrieved by what they regard as unfounded comments, merely raising them at a parish council meeting in the way that had been done here was not in itself a breach of a code of conduct.

The Sub-Committee therefore upheld the reasoning and the initial assessment decision of the Deputy Monitoring Officer to dismiss the complaint. However, they were also supportive of the recommendation to make the Associate Director of Economy and Planning (who has responsibility for Development Management) aware of the issues ongoing in the parish, and to ask that he review the issues and assist in coming to a resolution between the complainants and subject members.

Resolved:

To take no further action in respect of the complaint.

15 **Review of an Assessment Decision: WC-ENQ00138**

The Sub-Committee considered a complaint against Cllr Richard Clewer, Wiltshire Council, who it was alleged had breached the Code of Conduct through failure to respond to queries sent by the complainant.

The Sub-Committee went through the initial tests required by the local assessment criteria, and agreed with the assessment of the Deputy Monitoring Officer that the complaint related to the subject member, that he was in office at the time of the alleged incident, and was acting in his capacity as a councillor. They therefore then had to determine whether the remaining assessment criteria were met and, if so, whether the matters alleged in the complaint were, if proven, capable of breaching the Code of Conduct of the Council.

In reaching its decision the Sub-Committee relied upon the original complaint and supporting information, the response of the subject member, the initial assessment and the additional information submitted by the complainant in their request for a review of the initial decision to take no further action.

The complaint had arisen following email communication between the subject member and the complainant on a matter of council policy. There had been a series of exchanges which had also included officer communication to the complainant. The complainant remains dissatisfied with the responses she had received as well as what she feels was failure to respond in respect of certain queries, and that this was disrespectful and constitutes a breach of the Code of Conduct.

Regardless of whether Cllr Clewer had or had not provided the complainant with answers to her queries, the Sub-Committee had to consider whether a purported failure to do so would amount to a breach of the Code of Conduct. As raised in the Initial Assessment and noted by the complainant in their request for a review, Paragraphs 4 and 5 of the Code relate to being accountable and open for decisions taken by a subject member. Although the complainant disputed Cllr Clewer's statement in response to the complaint that he had made a series of responses, and would ensure to always reply electronically in future, he had not taken any decisions, and Paragraphs 4 and 5 therefore did not apply.

The Sub-Committee therefore upheld the reasoning and the initial assessment decision of the Deputy Monitoring Officer to take no further action in respect of the complaint. While the alleged behaviour, if proven, might be disrespectful, it would not be capable of breaching the Code of Conduct, and as such there was no justification or it to be referred for investigation.

(Duration of meeting: 1.00 - 2.15 pm)

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

Press enquiries to Communications, direct line (01225) 713114/713115