

STANDARDS REVIEW SUB-COMMITTEE

DRAFT MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 10 SEPTEMBER 2018 AT COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Sue Evans, Cllr Ruth Hopkinson, Cllr Stuart Wheeler, Mr Richard Baxter (non-voting) and Miss Pam Turner (non-voting)

Also Present:

Kieran Elliott (Democratic Services), Paul Taylor (Legal), Stuart Middleton (Independent Person), Russell Hawker (Subject Member), Sheila Kimmins (Complainant), Francis Morland (Supporting Subject Member)

12 Election of Chairman

Resolved:

To elect Councillor Stuart Wheeler as Chairman for this meeting only.

13 Declarations of Interest

There were no declarations.

14 Meeting Procedure and Assessment Criteria

The procedure and assessment criteria for the meeting were noted.

15 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 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

16 **Review of an Assessment Decision: Reference WC-ENQ00253**

Preamble

The Sub-Committee were satisfied that the initial tests of the Assessment Criteria had been met, being that the member was and remains a member of Westbury Town Council, that the conduct related to their conduct as a member of that 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 still appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the complaint and supporting documentation, the response of the Subject Member, the initial assessment of the Deputy Monitoring Officer to refer the matter for investigation, and the Subject Member's request for a review. The Sub-Committee also considered verbal statements from the Complainant and Subject Member at the review.

Conclusion

The complaint related to a series of emails from the Subject Member, Cllr Russell Hawker of Westbury Town Council, to other members of Westbury Town Council, including the Complainant, Cllr Sheila Kimmins. regarding a proposal from the Subject Member that several members who had been co-opted onto the council resign and instigate a by-election. There was no suggestion that the proposal was motivated by malice on the part of the Subject Member, who had been aiming for the council to meet the requirements to gain the power of competency to take certain actions, which necessitated a certain proportion of members be formally elected.

The Sub-Committee agreed with the conclusion of the Deputy Monitoring Officer that it could not be a breach of the Code simply to call for the resignation of another member, even if that call was strongly made or seen by some as discourteous. Freedom of expression, particularly in the context of political speech, requires a high threshold before any restriction is imposed, as would be the case if it were found that a breach had occurred and sanctions should be applied in this instance.

Nevertheless, the Sub-Committee also agreed with the conclusion of the Deputy Monitoring Officer that, in circulating the email chain of the discussion between the Subject Member and Complainant, among others, to a local media outlet, this represented an escalation of behaviour and, from the materials submitted by the parties, represented what appeared to be an attempt to intimidate and unduly pressurize the Complainant and others. The Sub-Committee agreed that this could therefore amount to an unreasonable or excessive attack on a person or a person's character, which they considered reasonably indicated, if proven, that there had been a failure to promote and support high standards of conduct as required by the relevant Code of Conduct.

It had been raised that the Subject Member subsequently withdrew his email and therefore any supposed intimidatory impact, which in any case was disputed by the Subject Member, had not taken place. However, the Sub-Committee considered that whether or not the email had been subsequently withdrawn, the question was whether there had been an attempt to put pressure on the complainant, not whether that attempt had been successful or had been abandoned.

Decision

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 has decided to refer the complaint for investigation.

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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