

STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 29 NOVEMBER 2018 AT CITY HALL, MALTHOUSE LANE, SALISBURY, SP2 7TU.

Present:

Cllr Fred Westmoreland, Mr Michael Lockhart (non-voting), Cllr George Jeans and Cllr Brian Mathew

Also Present:

Paul Taylor (Legal), Kieran Elliott (Democratic Services), Kenneth Ray (Complainant), Stuart Middleton (Independent Person), Cllr Matthew Dean (Subject Member)

22 Election of Chairman

Resolved:

To elect Councillor Fred Westmoreland as Chairman for this meeting only.

23 Declarations of Interest

There were no declarations.

24 Meeting Procedure and Assessment Criteria

The procedure and assessment criteria for the meeting were noted.

25 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 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

26 **Review of an Assessment Decision: Reference WC-ENQ00268**

Preamble

The complaint was from Kenneth Ray, (the complainant) regarding the conduct of Cllr Matthew Dean (the Subject Member). In accordance with the initial tests of the local assessment criteria the Sub-Committee accepted that the complaint related to the conduct of a member, that the member was in office at the time of the alleged incident and that they remain a member of both Salisbury City Council and Wiltshire Council. A code of conduct was in place for both councils and had been provided for the assessment.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of any relevant Code of Conduct. Further, if it was felt it would be a breach, was 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 preliminary finding of the Deputy Monitoring Officer to refer the matter for investigation, and the requests for review from both the complainant and subject member. The Sub-Committee also considered the verbal representations made to the review by both complainant and subject member.

Conclusion

The complaint related to a text or email message allegedly sent by the subject member which, it is claimed, by its derogatory nature, breached the requirements to promote and maintain high standards of conduct. The Sub-Committee was in agreement with the Deputy Monitoring Officer that no evidence had been presented that there had been any misuse of council resources, and that the provisions relating to providing reasons for formal decisions did not apply to the alleged incident, and accordingly did not recommend investigation for those reasons.

The focus was therefore on whether the alleged text or email was capable of breaching the code of conduct. The Sub-Committee accepted the reasoning of the Deputy Monitoring Officer that the nature of the alleged comments, which would include a failure to have due regard to a statutory obligation in respect of public sector equality duty, was capable, if proven, of breaching paragraphs 1.1 and 1.2 of the Salisbury City Council code of conduct.

The question had been raised as to whether the subject member, if acting as alleged, would have been acting in their official capacity. The Sub-Committee determined that if the complaint were proven, in that a message as described had been signed off with the subject member's formal council position, this would be an indication that even if the comment were made in jest, it would be

reasonable for a recipient or other person to conclude they were speaking in their official capacity, and as such subject to the Code

The Sub-Committee also confirmed that it agreed with the assessment that, on the information as presented, it did not appear even in the allegation that the subject member would have been acting in their capacity as a Wiltshire Councillor. Merely being a member of an authority, or identified as such by others, would not automatically indicate that any alleged action was being taken in that capacity, thereby making them subject to the code of conduct for that authority. However, the Sub-Committee noted that, as it had resolved to refer the complaint for investigation, it would be for an investigating officer to consider whether, on the facts as determined, the code of conduct for Wiltshire Council also applied in this case.

Resolved:

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 determined 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

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