

## Standards Review Sub-Committee

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### MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 9 JUNE 2020 AT ONLINE MEETING.

#### Present:

Cllr Ruth Hopkinson, Cllr Fred Westmoreland and Cllr Stuart Wheeler

#### Also Present:

Frank Cain (Head of Legal Services), Kieran Elliott (Democratic Services), Caroline Baynes (Independent Person – Sub-Committee), Stuart Middleton (Independent Person – Subject Member COC126881), Elizabeth Martin (Complainant)

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#### 1 Election of Chairman

##### Resolved:

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

#### 2 Declarations of Interest

There were no declarations.

#### 3 Meeting Procedure and Assessment Criteria

The procedure and assessment criteria for the meeting were noted.

#### 4 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 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*

## 5 **Review of an Assessment Decision: Reference COC124146**

### Preamble

A complaint was submitted by Elizabeth Martin regarding the conduct of Cllr Stephen Housby of Poulshot Parish Council. The Complaint relates to the conduct of the Subject Member in his dealings with and his attitude towards the complainant, the then clerk to the Parish Council, on diverse occasions from July 2017 to December 2019. The Complainant alleges that the Subject Member has breached the Parish Council's Code of Conduct by failing to behave in such a way that a reasonable person would regard as respectful, and acted in a way which a reasonable person would regard as bullying or intimidatory.

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the member was and remains a member of Poulshot Parish 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 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, the response of the Subject Member, the initial assessment decision of the Representative of the Monitoring Officer to take no further action and the request for a review of that decision by the Complainant.

The Sub-Committee also considered a verbal statement on behalf of the Complainant at the Review Sub-Committee meeting on 9 June February 2020 in support of written submissions, and a written statement from the Subject Member, who was not in attendance.

### Conclusion

The complainant had been employed by the parish council for a number of years. Allegations had been submitted of a variety of behaviours over a significant period by the Subject Member, among others on that council. The complainant considered that their treatment by the Subject Member including perceived pressure on them to leave their post amounted to unfair treatment and bullying, or contribution to an atmosphere of the same. In particular, reference had been made of alleged racist behaviour.

The Sub-Committee noted that whilst matters of employee grievance were a legal matter for a parish council to resolve under separate processes, matters of member behaviour fell within the remit of the standards regime overseen by Wiltshire Council. However, it was not uncommon for the two matters to become enmeshed where alleged member behaviours, as in this case,

contributed significantly to the matters which were required to be dealt with under formal grievance procedures.

The Sub-Committee considered the allegations and took into account the clear upset felt by the complainant. Whilst individual allegations might not in themselves be capable of breaching the Code of Conduct, the Sub-Committee considered whether the totality of the complaints alleged amounted to a pattern of behaviour would be capable of such.

Several allegations related to disagreements between the parties which had involved robust language and discussion and which the Sub-Committee did not consider were capable of breaching the Code of Conduct. Other allegations involving the Subject Member, to a greater extent than related complaints about other members of the parish council, made clear that there was considerable disagreement between the two parties and somewhat dysfunctional operations which had aggravated concerns, and the Sub-Committee acknowledged that distress had resulted. However, although not all the allegations related to minor concerns, when assessing the matter as a whole the Sub-Committee did not consider that the matters rose to the level of a breach of the Code, although the tone and nature of communications had caused upset and escalated matters.

The Sub-Committee was also concerned that given the subjective interpretations of, in some cases, the same facts by the separate parties, it was not clear that a standards investigation would be the most effective and appropriate method of resolving the complex claims and counter claims within the context of the ongoing employer-employee dispute.

It therefore concluded for all the reasons listed above, that whilst the behaviour of the Subject Member along with others within the parish council, as well as the responses of the complainant, had contributed to the escalation of the dispute between the parties beyond that which it might be felt was necessary even given the nature of the dispute, it agreed with reasoning of the Monitoring Officer's representative for the Initial Assessment that these did not rise to the level of a breach and it was also not in the public interest to refer the matter for further investigation.

### **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 determined to take no further action in respect of the complaint.**

## 6 **Review of an Assessment Decision: Reference COC126880**

### Preamble

A complaint was submitted by Elizabeth Martin regarding the conduct of Cllr Ben Hamilton of Poulshot Parish Council. The Complaint relates to the conduct of the Subject Member in his dealings with and his attitude towards the complainant, the then clerk to the Parish Council, on diverse occasions from July 2017 to December 2019. The Complainant alleges that the Subject Member has breached the Parish Council's Code of Conduct by failing to behave in such a way that a reasonable person would regard as respectful, and acted in a way which a reasonable person would regard as bullying or intimidatory.

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the member was and remains a member of Poulshot Parish 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 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, the response of the Subject Member, the initial assessment decision of the Representative of the Monitoring Officer to take no further action and the request for a review of that decision by the Complainant.

The Sub-Committee also considered a verbal statement on behalf of the Complainant at the Review Sub-Committee meeting on 9 June February 2020 in support of written submissions, and a written statement from the Subject Member, who was not in attendance.

### Conclusion

The complainant had been employed by the parish council for a number of years. Allegations had been submitted of a variety of behaviours over a significant period by the Subject Member, among others on that council. The complainant considered that their treatment by the Subject Member including perceived pressure on them to leave their post amounted to unfair treatment and bullying, or contribution to an atmosphere of the same.

The Sub-Committee noted that whilst matters of employee grievance were a legal matter for a parish council to resolve under separate processes, matters of member behaviour fell within the remit of the standards regime overseen by Wiltshire Council. However, it was not uncommon for the two matters to become enmeshed where alleged member behaviours, as in this case, contributed significantly to the matters which were required to be dealt with under formal grievance procedures.

The Sub-Committee considered the allegations and took into account the clear upset felt by the complainant. It was also clear that there had been a breakdown in trust between the two parties, among others, which had greater significance given the Subject Member's position as Chairman. Whilst individual allegations might not in themselves be capable of breaching the Code of Conduct, the Sub-Committee considered whether the totality of the complaints alleged amounted to a pattern of behaviour would be capable of such.

The Sub-Committee was not persuaded that the matters alleged, if proven, would amount to such a breach of the Code in this case. Whilst it was possible for the Sub-Committee to make a determination on matters pertaining to member behaviour outside of the grievance procedure process, on the basis of materials as provided it did not consider the behaviours alleged rose to the level of a potential breach.

The Sub-Committee was also concerned that given the subjective interpretations of, in some cases, the same facts by the separate parties, it was not clear that a standards investigation would be the most effective and appropriate method of resolving the complex claims and counter claims within the context of the ongoing employer-employee dispute.

It therefore concluded for all the reasons listed above, that whilst the behaviour of the Subject Member along with others within the parish council, as well as the responses of the complainant, had contributed to the escalation of the dispute between the parties beyond that which it might be felt was necessary even given the nature of the dispute, it agreed with reasoning of the Monitoring Officer's representative for the Initial Assessment that these did not rise to the level of a breach and it was also not in the public interest to refer the matter for further investigation.

### **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 determined to take no further action in respect of the complaint**

## **Review of an Assessment Decision: Reference COC126881**

### **Preamble**

A complaint was submitted by Elizabeth Martin regarding the conduct of Cllr Tim Jalland of Poulshot Parish Council. The Complaint relates to the conduct of the Subject Member in his dealings with and his attitude towards the complainant, the then clerk to the Parish Council, on diverse occasions from July 2017 to December 2019. The Complainant alleges that the Subject Member has breached the Parish Council's Code of Conduct by failing to behave in such a way that a reasonable person would regard as respectful, and acted in a way which a reasonable person would regard as bullying or intimidatory.

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the member was and remains a member of Poulshot Parish 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 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, the response of the Subject Member, the initial assessment decision of the Representative of the Monitoring Officer to take no further action and the request for a review of that decision by the Complainant.

The Sub-Committee also considered a verbal statement on behalf of the Complainant at the Review Sub-Committee meeting on 9 June February 2020 in support of written submissions, and a written statement from the Subject Member, who was not in attendance. An Independent Person supporting the Subject Member was in attendance for the hearing of statements.

### **Conclusion**

The complainant had been employed by the parish council for a number of years. Allegations had been submitted of a variety of behaviours over a significant period by the Subject Member, among others on that council. The complainant considered that their treatment by the Subject Member including perceived pressure on them to leave their post amounted to unfair treatment and bullying, or contribution to an atmosphere of the same. In particular, reference had been made of alleged racist behaviour.

The Sub-Committee noted that whilst matters of employee grievance were a legal matter for a parish council to resolve under separate processes, matters of member behaviour fell within the remit of the standards regime overseen by Wiltshire Council. However, it was not uncommon for the two matters to become enmeshed where alleged member behaviours, as in this case,

contributed significantly to the matters which were required to be dealt with under formal grievance procedures.

The complaint detailed a number of incidences where the complainant considered, individually or cumulatively, that the Subject Member's behaviour toward her in relation to the discharge of her duties and other matters had risen to the level of a breach of the Code. The representative of the Monitoring Officer who had undertaken the initial assessment had considered several of those incidents, whilst possibly unhelpful or regrettable, were not sufficient to be considered as bullying or intimidatory behaviour under the Code.

The Sub-Committee carefully considered the circumstances of the interactions between the complainant and Subject Member as outlined, including what had been regarded as attacking communications by the complainant, and agreed that whilst the tone and language used was not ideal, even taken together it did not consider the behaviours rose to the level of a breach of the Code.

The Sub-Committee was also concerned that given the subjective interpretations of, in some cases, the same facts by the separate parties, it was not clear that a standards investigation would be the most effective and appropriate method of resolving the complex claims and counter claims within the context of the ongoing employer-employee dispute.

It therefore concluded for all the reasons listed above, that whilst the behaviour of the Subject Member along with others within the parish council, as well as the responses of the complainant, had contributed to the escalation of the dispute between the parties beyond that which it might be felt was necessary even given the nature of the dispute, it agreed with reasoning of the Monitoring Officer's representative for the Initial Assessment that these did not rise to the level of a breach and it was also not in the public interest to refer the matter for further investigation.

### **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 determined to take no further action in respect of the complaint.**

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

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