

DECISION NOTICE: REFER TO HEARING SUB-COMMITTEE

Reference COC126112

Subject Member

Cllr John Tighe – Upavon Parish Council

Complainant

Mr Neil Sheen and Mrs Emma Sheen

Representative of the Monitoring Officer

Paul Barnett

Independent Person

Tony Drew

Review Sub-Committee

Cllr Trevor Carbin - Chairman
Cllr Andrew Bryant
Cllr Howard Greenman

Decision Date

10 December 2020

Issue Date

16 December 2020

Complaint

The Complainants alleged that during a telephone call on 18 October 2019 Councillor Tighe was rude and bad tempered. They also alleged that Councillor Tighe attempted to bully and intimidate them by making the comment, 'you do not want to fall out with me you will regret it'.

In doing so it was alleged that Councillor Tighe had breached paragraphs 3 and 6 of the Upavon Parish Council Code of Conduct and had failed to live up to the general principles of selflessness, integrity, accountability, openness, honesty and leadership required by Upavon Parish Council and the public office he holds..intimidatory**The**

**Complainant alleges that the Subject Member in an email dated 29 August 2017 breached the Code of Conduct applicable to the Chilton Foliat Parish Council in that the Subject Member:
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 refer the complaint to the Hearing Sub-Committee.

Reasons for Decision

Preamble

1. The complaint had received an initial assessment which had concluded that the alleged behaviour, if proven, could amount to a breach of the Code of Conduct. A Review-Sub-Committee had upheld that decision on 7 February 2020 and the complaint was referred to seek mediation between the parties before referring the complaint for investigation. Mediation was attempted, but was not successful.
2. Following that investigation, the Investigating Officer's report concluded, on balance, that there had not been a breach of the Code of Conduct. In consultation with one of the council's Independent Persons, the Monitoring Officer had then upheld the Investigating Officer's findings and conclusion of there being no breach. The Complainants then requested a review of the Monitoring Officer's decision to uphold the findings and conclusion of the Investigating Officer's reports. The matter was therefore considered by a further Review Sub-Committee.
3. 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, the Review Sub-Committee decision other evidence provided during the investigation, comments on the report itself from both parties, the decision notice of the Monitoring Officer, and the Complainants' request for a review of that decision. Neither party was in attendance at the meeting on 10 December 2020.

Report

4. The complaint involved a telephone conversation between the Subject Member and the Complainants regarding an ongoing dispute which became heated. The context of the discussion and stated intentions of certain comments were disputed, however there was agreement within the evidence presented by both sides of the general details of the comments, including that it was not denied that the Subject Member had made the comment 'You do not want to fall out with me, you'll regret it'.
5. The Investigating Officer had acknowledged that the complaint had been a difficult one to determine, considering that the Subject Member's words could have been better chosen, but had concluded that the actions and comments had not risen to the level of a breach, taking into account the tense nature of the discussion, the explanation of the

Subject Member regarding his intentions and that he had expressed regret for the situation.

6. The Monitoring Officer, after consulting an Independent Person, had determined there should be no further action as they were satisfied with the findings and conclusions of the report as reasonable and proportionate, and noted the expressions of regret or apologies offered by the Subject Member, and that there had been no attempt to improperly confer for himself or any other person an advantage or disadvantage.

Conclusion

7. Following discussion, the Review Sub-Committee did not support the decision of the Monitoring Officer to take no further action in respect of the complaint.
8. Whilst there had at times been expressions of regret from the Subject Member regarding the incident giving rise to complaint, the investigation had found it was not in dispute that the alleged comments had occurred. As the Investigating Officer's report had noted, whatever the intentions, the comments about 'You do not want to fall out with me, you'll regret it' contain an implicit threat in the context of the discussion that had occurred. The explanation provided by the Subject Member in response to the original complaint could further seem to confirm that implicit threat.
9. Such a threat was an extremely serious matter. The Sub-Committee accepted the findings of the Investigating Officer's report in respect of the evidence obtained. However, it did not accept the conclusion that, in the circumstances, certain expressions of regret for the comments or stated intent were sufficient to suggest the comments, acknowledged by the Subject Member, did not rise to the level of a breach of the Code given that seriousness.
10. This was particularly the case given the Subject Member's position as Chairman of the Parish Council. Although no disadvantage may have been intended by the Subject Member or may later have occurred, the comments made during the incident could be regarded as intimidatory, especially coming from a person of authority within the Parish Council.
11. Accordingly, the Sub-Committee resolved to overturn the decision of the Monitoring Officer to take no further action, and determined that the complaint should be referred to a Hearing Sub-Committee as a breach of Paragraph 3 of the relevant Code of Conduct.