

Standards Review Sub-Committee

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 10 DECEMBER 2020 AT ONLINE MEETING.

Present:

Cllr Andrew Bryant, Cllr Trevor Carbin and Cllr Howard Greenman

Also Present:

Paul Barnett (Legal Services), Kieran Elliott (Democratic Services), Tony Drew (Independent Person)

8 **Election of Chairman**

Resolved:

To elect Councillor Trevor Carbin as Chairman for this meeting only.

9 **Declarations of Interest**

There were no declarations.

10 **Meeting Procedure and Assessment Criteria**

The procedure and assessment criteria for the meeting were noted.

11 **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

Review of the consideration of an Investigating Officer's Report: COC126112

Preamble

A complaint had been received from Mr and Mrs Sheen regarding the conduct of Cllr John Tighe of Upavon Parish Council. The Complainants alleged that during a telephone call on 18 October 2019 Cllr 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

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.

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.

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

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'.

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.

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

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.

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.

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.

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.

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.

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.

The Officer who has produced these minutes is Kieran Elliott of Democratic Services,
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