

Standards Assessment Sub-Committee

MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 25 MARCH 2021 AT ONLINE MEETING.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Ernie Clark (Vice-Chairman),
Cllr Richard Britton, Cllr Fred Westmoreland, Mr Richard Baxter (non-voting) and
Mr Michael Lockhart (non-voting)

Also Present:

Paul Barnett (Public Law and Compliance), Frank Cain (Head of Legal Services),
Tony Drew (Independent Person COC133164, COC133272), Caroline Baynes
(Independent Person COC129218, COC132864, COC133045), Kieran Elliott
(Democratic Services), Lisa Moore (Democratic Services), Complainant COC133045,
Jane Brentor (Subject Member COC133272), Bev Cornish (Complainant
COC133272), Antonio Piazza (Subject Member COC129218), Tom Patterson
(Subject Member COC132864)

17 Apologies

Apologies were received from Councillor Stuart Wheeler.

18 Minutes of the Previous Meeting

The minutes of the meeting held on 11 February 2021 were presented for
consideration, and it was,

Resolved:

To approve and sign the minutes as a true and correct record.

19 Declarations of Interest

Councillor Richard Britton declared that he had met the Complainant and
Subject Member for complaint COC133272, who had each attended meetings
of the Southern Wiltshire Area Board. He declared that this would not prevent
him considering the matter with an open mind and would participate in any
debate and vote.

Councillor Ruth Hopkinson declared that she had met the Subject Member for
complaint COC133045, but that this would not prevent her considering the
matter with an open mind and would participate in any debate and vote.

20 **Meeting Procedure and Assessment Criteria**

The meeting procedure and assessment criteria were noted.

21 **Exclusion of the Public**

It was,

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 Minute Numbers 22 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.

Prior to consideration of the complaints Frank Cain, Head of Legal Services, provided an update in relation to comments received for COC129218 and COC133164.

22 **Assessment of Complaint: COC129218**

Preamble

A complaint was received from Councillor Stewart Palmen of Trowbridge Town Council (the Complainant) regarding the conduct of Councillor Antonio Piazza of Trowbridge Town Council (the Subject Member).

It had been alleged that the Subject Member had publicly reprimanded an officer of the Town Council and failed to be supportive, contrary to clause 2.5 and 5.4 of the Town Council's Protocol on Member/Officer relations, and that in accordance with clause 1.5 of that protocol this could amount to a breach of the Code of Conduct for the Town Council.

The comments alleged to be in breach had been part of a Facebook discussion involving the Subject Member and others in relation to council business.

Assessment

The complaint had received an initial assessment on 18 August 2020 where it was determined to refer the matter for investigation. Following that investigation, the Investigating Officer's report concluded that the threshold for a breach of the Code of Conduct had not been reached. In consultation with an Independent Person, the Monitoring Officer had considered the report and determined to recommend to the Sub-Committee that no further action be taken in respect of the complaint.

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,

other evidence provided during the investigation, comments on the report itself from both parties, and the decision notice of the Monitoring Officer to take no further action. The Sub-Committee also considered a written statement from the Complainant, who was not in attendance. The Subject Member was in attendance but did not make a verbal statement.

Conclusion

The Sub-Committee accepted the recommendation of the Monitoring Officer in upholding the reasons and conclusions of the Investigating Officer that the threshold of a breach had not been reached, and the process followed was sound.

In particular, the Monitoring Officer considered the statements made by the Subject Member in the context of the right to freedom of expression under Article 10 of the European Convention on Human Rights, with enhanced protections in respect of political speech, and that under Section 6 of the Human Rights Act 1998 it was unlawful for a public authority to act in a way that is incompatible with human rights.

The Sub-Committee was satisfied that there had been a fair and comprehensive investigation into the complaint and found no reason to overturn the recommendation of the Monitoring Officer. Particularly in consideration of issues of freedom of expression, it was considered that the conclusion, that the alleged comments had not risen to the level of a breach, was reasonable.

The Sub-Committee noted the concerns expressed by the Complainant regarding the Standards process generally. It noted that while Codes could be made more specific or procedures amended and this would be relevant to determination of potential breaches, legal considerations such as free speech would apply irrespective of the precise content of a Code or specific standards procedures, and that promotion of high standards of conduct could never entirely restrict the rights of Members.

It was therefore,

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.

23 **Assessment of Complaint: COC132864**

Preamble

A complaint was received from Martin Lansdown (the Complainant) regarding the conduct of Councillor Tom Patterson (the Subject Member), a Member of Royal Wootton Bassett Town Council.

The complaint alleged that in various actions relating to a campaign to replace a memorial sculpture in the Town of Royal Wotton Bassett the Subject Member has acted with self-interest rather than in the best interests of the residents of the Council.

The Complainant also alleges that a committee of the Council that the Subject Member chairs in respect of the campaign has not been as open as possible about the decisions and actions that it has taken under his stewardship.

The Complainant also alleges that there is little to suggest that the actions carried out by the Subject Member were done with the full knowledge and agreement of the residents' Poppy Committee.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was a member for at least some of the period of allegations and remains a member of Royal Wootton Bassett Town Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the Code of Conduct and if so, what action would be required.

If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered a written statement from the Complainant, who was not in attendance, provided in advance of the Assessment Sub-Committee meeting, and a verbal statement from the Subject Member.

The background to and detail of the various allegations in relation to actions involving the Subject Member, Complainant, and others in respect of replacement of a poppy sculpture, working groups and trademarks such as Forever Poppy, involved a great deal of complexity. The Subject Member had not been a member of the Town Council for the entire background period relevant to the complaint but had become a member in February 2020.

In considering whether the actions alleged would, if proven, amount to a breach of the Town Council Code of Conduct, the Sub-Committee also considered whether it would be in the public interest to investigate the matter purely in relation to a possible standards breach. It was clear from the documentation provided by the parties that there was a broader matter of dispute between the parties which was having a detrimental impact upon the community, and it was

the view of the committee that this would not be resolved through a narrowly focused investigation into individual standards.

The Sub-Committee also considered that both parties appeared to be hard working individuals seeking to aid the community.

On balance, and after considering all the information provided, the Sub-Committee was not persuaded that the specific alleged actions as part of the more complex dispute, would, if proven, rise to a level of a breach of the Code of Conduct. Moreover, even were it the case that they did, it was not persuaded that it was in the public interest for the matter to be investigated under the standards regime, noting the broader issues referenced within the complaint which were distinct from any issue of individual standards.

Conclusion

It was therefore resolved to take no further action in respect of the complaint. However, the Sub-Committee recognised that both parties had been working in various capacities with the best interests of the community in mind, which the present dispute was disrupting.

Therefore, although it was not felt that the standards regime was the appropriate method for resolving the dispute, the Sub-Committee urged the parties to consider some form of mediation to achieve a resolution and prevent escalation of the dispute to disadvantage the community benefit each was seeking to achieve

It was therefore,

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.

24 Assessment of Complaint: COC133045

In considering complaint COC133045 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 the relevant 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, supporting information, and the report of the Monitoring Officer. The Sub-Committee also considered a written statement from the Subject Member provided at the meeting, and a verbal statement from the Complainant, who was in attendance.

After discussion, it was,

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to refer the complaint for investigation.

25 **Assessment of Complaint: COC133272**

Preamble

A complaint was received from Bev Cornish (the Complainant) regarding the conduct of Councillor Jane Brentor (the Subject Member), a Member of Downton Parish Council.

The Complainant, who is clerk to the parish council, alleges that at a meeting of the council held on 25 January 2021 the Subject Member misrepresented the complainant's advice to the Council. It was alleged that she had thereby failed to promote and support high standards of conduct when serving in her public post and in particular has failed to have regard to the Nolan principles of integrity, honesty, openness and leadership and has consequently breached the Council's code of conduct.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Downton Parish Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the Code of Conduct and if so, what action would be required.

If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member and supporting information, and the report of the Monitoring Officer.

The Sub-Committee also considered statements from the Complainant and the Subject Member, who were both in attendance

The Complainant is the clerk and responsible financial officer of the parish council. Following an email exchange between the parties in respect of maintenance services provided to the council, the issue was discussed at a meeting of the parish council. The Complainant was not present as a result of work-related stress.

The allegation is that the Subject Member misrepresented the contents of the email exchanges and advice from the complainant, and in doing so impugned the professional reputation of the Complainant

From the documentation and statements provided to the Sub-Committee it appeared that there had been a breakdown of trust between the Complainant and Subject Member. Whilst councils and councillors could take action other than as advised, it was important that advice be able to be received and transmitted accurately.

It was accepted by the Subject Member that the intended meaning of the advice provided by the Complainant may not have been entirely accurately represented by the Subject Member in her statement to the parish council. She stated that any misrepresentation perceived was not intentional and that she had made the points as she had understood and believed them to be.

The Subject Member further stated that she was willing to publicly state in an apology that the Complainant had intended a different meaning to that which the Subject Member had previously suggested at the meeting.

The Sub-Committee took into account paragraph 5.2 of the Assessment Criteria, namely that: *A complaint will not normally be referred for investigation if the Subject Member has offered an apology, a reasonable explanation of the issues, or if the Assessment Sub-Committee takes the view that the complaint can reasonably be addressed by other means.*

Accordingly, given the Subject Member had offered a reasonable explanation that she had misunderstood the advice received, and had offered to make a public apology to clarify that she had been mistaken as to the Complainant's intended advice, it was not considered in the public interest to refer the matter for investigation.

In particular, a public acknowledgement of having misrepresented the Complainant would address the concerns regarding perceptions of the professional conduct of the Complainant.

It was therefore,

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.

26 **Assessment of Complaint: COC133164**

Preamble

A complaint was received from Ian Whittaker-Axon (the Complainant) regarding the conduct of Councillor Anna Cuthbert (the Subject Member), a Member of Wiltshire Council.

The Complainant alleged that Rowde Parish Council has not seen or heard from the subject member since February 2020 and that she has only attended two Parish Council meetings since May 2019. It was alleged she had thereby failed to promote and support high standards of conduct when serving in her public post and in particular had failed to have regard to the Nolan principles and as a result has breached the Council's code of conduct.

Assessment

The Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Wiltshire Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the various alleged actions.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of the Code of Conduct and if so, what action would be required.

If the Sub-Committee concluded that the alleged behaviour would amount to a breach, then it would have to go on to decide whether it was appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, and the report of the Monitoring Officer.

The Sub-Committee also considered written statements from the Complainant and the Subject Member. Neither party was in attendance.

The Complainant had been a member of the parish council at the time of submitting the complaint and had taken the action at the behest of the parish council. However, he had subsequently resigned from the parish council and had therefore sought the views of the parish council following publication of the agenda. As a result of those views he confirmed that he wished to withdraw the complaint.

Prior to that confirmation by the Complainant, the Subject Member had responded and disputed the suggestion that her actions in how she engaged or did not engage with a parish council within her Unitary Division area had been capable of breaching the Code of Conduct. However, she had also confirmed that she was not standing for re-election and so would cease to be a Member of Wiltshire Council in May 2021.

Given the limited period in which the Subject Member would remain a Unitary Councillor, and considering the statement of the Complainant seeking to withdraw the complaint, the Sub-Committee did not consider it was in the public interest to refer the complaint for investigation, even were it considered that a breach, if proven, may have occurred.

The Sub-Committee did note that where there were difficulties between a parish council and the local Unitary Member, other approaches such as communication to political groups would be open to the parish council. It noted that Unitary Members necessarily would have different approaches to how they engaged with parish councils and others in their communities. It did not, therefore, in any case consider that a breach would have occurred, had the allegations been proven.

The Sub-Committee noted the suggestion of the Subject Member in her statement that officers may have been influenced to reformulate or otherwise treat differently the complaint in part as a result of direction from the Executive of Wiltshire Council. However, the Sub-Committee was assured and accepted that the complaint had been processed in accordance with constitutional procedures at all times, and there was no suggestion either of Executive involvement within the Standards process for any complaint, or any impact upon neutrality of officers.

It was therefore,

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.

(Duration of meeting: 10.00 - 11.55 am)

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