

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

11 February 2021

Issue Date

15 February 2021

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.
3. The matter was therefore considered by a further Review Sub-Committee on 10 December 2020. In reaching its decision to refer the matter to a Hearing Sub-Committee, 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.
4. Following the decision of that meeting, the council was informed that the Subject Member had resigned from Upavon Parish Council. This was confirmed in January 2021.
5. As the Subject Member no longer being a member of Upavon Parish Council was a material change in circumstances, and bearing in mind particularly that the assessment criteria included consideration of whether the Subject Member remained a member of the relevant council or, if not, that it was in the public interest to proceed, the Review Sub-Committee reconvened in order to consider whether to retain its decision made on 10 December 2020.

6. The meeting was scheduled for 9 February 2021 but was unable to proceed and was rescheduled by the Proper Officer to 11 February 2021.
7. In reaching its decision at that meeting, the Sub-Committee considered, in addition to their previous considerations, the decision notice of the meeting held on 10 December 2020. Neither party was in attendance at the meeting on 11 February 2021, but comments had been received by both parties. The views of the Independent Person, who was not present, had also been sought and provided.

Conclusion

8. At its previous meeting the Review Sub-Committee had not supported the decision of the Monitoring Officer to take no further action in respect of the complaint.
9. This was because 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' contained an implicit threat in the context of the discussion that had occurred particularly given the Subject Member's position as Chairman of the Parish Council at that time. For the reasons set out in the decision notice for that meeting, the Sub-Committee had considered that it appeared a breach of paragraph 3 of the Code had occurred.
10. The Sub-Committee carefully considered the situation now that the Subject Member had resigned from the parish council. It noted the initial tests in the assessment criteria as had been in place when the complaint was submitted, which said an assessment should be satisfied a member remained a member of the relevant council or, if not, that it was in the public interest to continue to consider the complaint.
11. The Sub-Committee noted the limited sanctions that could be applied particularly in the case where the member was no longer a member of the parish council, the publicization of a decision even should there be no further formal action setting out details of the potential breach, and the need to consider the broader public interest including the efficient use of resources.
12. Nevertheless, the Sub-Committee considered that the alleged breach had been of a level of seriousness that it remained in the public interest for the matter to be taken to a Hearing Sub-Committee and fully determined.
13. It therefore upheld its previous decision to refer the complaint to a Hearing Sub-Committee.