

Standards Review Sub-Committee

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 11 FEBRUARY 2021 AT ONLINE MEETING

Present:

Cllr Andrew Bryant, Cllr Trevor Carbin and Cllr Howard Greenman

Also Present:

Paul Barnett (Legal Services), Kieran Elliott (Senior Democratic Services Officer)

1 **Election of Chairman**

Resolved:

To elect Councillor Trevor Carbin 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 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 **COC126112**

Preamble

A complaint was received from Mr and Mrs Sheen regarding the conduct of Cllr John Tighe, Upavon Parish Council. The complaint related to a telephone conversation in which it was alleged the Subject Member had become 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'.

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 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.

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.

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.

The meeting was scheduled for 9 February 2021 but was unable to proceed and was rescheduled by the Proper Officer to 11 February 2021.

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

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.

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.

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.

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.

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.

It therefore upheld its previous decision to refer the complaint to a Hearing Sub-Committee.

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, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115