

Standards Hearing Sub-Committee

MINUTES OF THE STANDARDS HEARING SUB-COMMITTEE MEETING HELD ON 8 FEBRUARY 2024 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Trevor Carbin, Cllr Tamara Reay and Cllr Graham Wright (Chairman)

Also Present:

Lisa Alexander (Senior Democratic Services Officer), Pat Bunche (Independent Person), Cllr John Dalley (Subject Member), Kieran Elliott (Democracy Manager – Democratic Services), Perry Holmes (Monitoring Officer), Cllr Amanda Humphreys (Complainant), Jed Matthews (Investigating Officer – Complaints), Henry Powell (Democracy and Complaints Manager)

1 Election of Chairman

Nominations for a Chairman of the Standards Sub-Committee were sought and it was

Resolved:

To elect Councillor Graham Wright as Chairman for this meeting only.

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2 Declarations of Interest

There were no declarations of interest.

3 Meeting Procedure

The procedure listed within the agenda papers was noted.

Introductions of all those present were made.

4 Exclusion of the Press and Public

After seeking views from the Investigating Officer, Subject Member and Monitoring Officer in accordance with procedure, the Sub-Committee did not resolve to move into Part II private session for the conducting of the Hearing.

5 **Determination of a Code of Conduct Complaint COC146700 in respect of Councillor John Dalley, Rowde Parish Council**

The Hearing was in relation to complaint COC146700 made by Cllr Amanda Humphreys (The Complainant) of Rowde Parish Council, regarding the alleged conduct of Councillor John Dalley (The Subject Member), also of Rowde Parish Council.

The Sub-Committee had received prior notification from the Investigating Officer, the Complainant and the Subject Member confirming their attendance at the Hearing in person.

Investigating Officer Representations

The Investigating Officer, Jed Matthews, presented their Report and confirmed that no witnesses would be called.

It was alleged that during events which took place in June 2023, the Subject Member had acted in a loud and offensive manner, had made inappropriate comments about the Complainant to other Councillors. In his actions, the Complainant believed that the Subject Member had bullied and showed a lack of respect to the Complainant.

In doing so it was alleged that the Subject Member breached the following Sections of the Rowde Parish Council Code of Conduct:

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

At the conclusion of the Investigation, the Investigating Officer's findings were that based on the evidence considered, and on the balance of probabilities a breach of the Rowde Parish Council's Code of Conduct had occurred.

Complainant Statement

In accordance with the procedure the Sub-Committee received a verbal statement from the Complainant in support of their complaint.

Questioning of Investigating Officer

In accordance with the procedure the Sub-Committee then had the opportunity to ask questions of the Investigating Officer, supported by the Independent Person. No Questions or points of clarification were sought by the Sub-Committee.

Subject Member Representations

In accordance with the procedure the Sub-Committee received a verbal statement from the Subject Member as evidence and to make representations as to why they consider that they did not fail to comply with the Code of Conduct.

In the statement, the Subject Member suggested that the complaint against him had arisen out of a disagreement between members of the Parish Council with regards to the handling of the playing fields and associated matters involving the use of a container as a changing room and of sourcing barriers for the playing field.

The Subject Member stated that historically, he had been solely responsible for all matters involving the playing field and as such believed that the other members of the Parish Council should not be involved in taking on any tasks, which he considered were within his remit.

The Subject Member set out examples of alleged poor behaviour from other members of the Parish Council, in order to highlight the breakdown between differing personalities, which he felt had led to the escalation of bad feeling against him by some of the members, who had specifically targeted him in an effort to paint him in a poor light within the community.

No witnesses were called by the Subject Member.

Questions of the Subject Member

The Sub-Committee reminded the Subject Member that the Hearing was in regard to the complaint against his actions as set out in the report and that any separate incidents should be logged separately through the Code of Conduct Complaints Process for consideration.

The Sub-Committee sought clarification on whether the Parish Council had sub-committees for specific areas of responsibility, such as the playing fields or whether he had been delegated as the lead member for the playing fields.

The Subject Member confirmed that although there had been a suggestion made by one of the members to form a Sub-Committee, it had not come to fruition due to the disagreements around the changing facilities and such. In addition, the Subject Member claimed that as he had historically taken charge of the maintenance of the sports ground and had been involved with the football games and setting up the goals and cutting the grass, that he should be left to deal with all of the playing fields associated requirements for works, because it fell under his area of responsibility.

Concluding Statements

The Investigating Officer

The Investigating Officer made a concluding statement, in which they highlighted their findings as detailed above.

In response to the Subject Member raising allegations against other Rowde Parish Councillors, the Investigating Officer confirmed that separate complaints could be logged in line with the Code of Conduct complaints process and that assistance would be provided should it be required.

The Complainant

The Complainant made a concluding statement, in which they highlighted their allegations which led to the complaint and how they believed the Subject Member had breached the Code of Conduct. In addition, the Complainant clarified some points which had been raised by the Subject Member during his statement, noting areas which they believed to be untrue.

The Subject Member

The Subject Member made a concluding statement in which they outlined the background to the disagreements between the council members and noted the inexperience of the Chairman in managing council meetings, which he believed to be mitigating factors in the course of events.

Deliberations

Following the concluding statements, the Sub-Committee withdrew into private session at 11:50am, together with the Independent Person, the Monitoring Officer, and other supporting officers.

The Independent Person was consulted throughout the process and her contributions were taken into account by the Sub-Committee in reaching their decision.

The Hearing resumed at 12:20pm at the conclusion of deliberations and the decision of the Sub-Committee was announced to those present as detailed below.

Decision

Having considered all relevant matters and evidence, including the complaint, the Investigating Officer's report, the submissions made by the parties as detailed in the agenda papers and in verbal statements during the Hearing, the Sub-Committee concluded on the balance of probabilities that Councillor John Dalley of Rowde Parish Council breached the Parish Council's Code of Conduct under the following provisions:

Paragraph 1 - He/she shall behave in such a way that a reasonable person would regard as respectful.

Paragraph 2 - He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

Sanctions:

The Sub-Committee agreed the following Sanctions be recommended to Rowde Parish Council:

1. To recommend the Censure of Cllr John Dalley
2. To recommend the Hearing Sub-Committee minutes regarding COC146700 be published for information on the next Parish Council meeting agenda.

In addition, the following advisory notes were agreed:

- a) That Rowde Parish Council considers setting up an amenity committee and forms other sub-committees for specific areas of responsibility when required.
- b) That Rowde Parish Council considers the adoption of a model where a due process moving forward involves the clerk taking on such actions as the acquisition of quotes for future expenditure/works, which could be brought back to future Parish Council meetings for consideration in public.
- c) That Rowde Parish Council considers inviting all its members to undertake training on, the code of conduct, and meeting etiquette.

Reasons for Decision

Background

The Subject Member and the Complainant were elected members of Rowde Parish Council.

The Subject Member in his role as a Councillor had signed a declaration in agreement to abide by the Rowde Parish Council Code of Conduct.

The Code did not provide a definition of bullying. For the purposes of Hearing, the Sub-Committee considered the following definition of bullying provided by the Advisory, Conciliation and Arbitration Service (ACAS):

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Code did not provide a definition of respect. For the purposes of Hearing, reference was made to the guidance on respect provided by the Local Government Association, which accompanies its Model Code of Conduct and includes the following definition:

“Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil

manner. You should not, however, subject individuals, groups of people or organisations to personal attack.”

“In a local government context this [i.e. respect] can mean using appropriate language in meetings and written communications, allowing others time to speak without interruption during debates, focusing any criticism or challenge on ideas and policies rather than personalities or personal attributes and recognising the contribution of others to projects.”

“Examples of disrespect in a local government context might include rude or angry outbursts in meetings, use of inappropriate language in meetings or written communications such as swearing, ignoring someone who is attempting to contribute to a discussion.”

12 June 2023 – Informal Meeting

Members of the Council met to discuss the parish playing field. This informal meeting was not open to the public, and no minutes were recorded. Members in attendance agreed to gather further information to present to the next formal meeting of the Council on 14 June 2023.

It was alleged by the Complainant, that during the informal meeting, the Subject Member made inappropriate comments about her, referring to her as “your gobby missus” (a remark directed at the Complainants husband).

The Subject Member confirmed that at the informal meeting on 12 June 2023 there was a disagreement but stated that it was settled during the meeting. During the Hearing the Subject Member refuted using the term ‘gobby’.

14 June 2023 – Council Meeting

At the public formal meeting, the Council discussed the matter of the changing rooms for the playing field further, during which the Subject Member altered his previous position, deciding that he wished to seek further clarification on one of the quotes. Following this, the Council resolved that three quotations would be put before the Council and voted on at its meeting in July.

The Complainant alleged that the Subject Member disrupted the meeting of the Council by shouting and finger pointing and acting in a loud and offensive manner.

15 June 2023

The Complainant offered her resignation to the Chairman of the Council and closed a WhatsApp group for Council members for which she was the administrator. A new WhatsApp group was then set up by another member without the Complainant in its membership. The Complainants resignation was not accepted by the Chairman and she remained a member of the Council.

WhatsApp Messages

In WhatsApp messages sent between 18 – 19 June 2023 by the Subject Member, to another member of the Parish Council, he referred to the

Complainant as “wicked, evil heinous” and “a nasty evil bitch who was trying to take over the parish council”.

The Subject Member in his initial response did not deny sending the messages, noting that they were not made in a public forum.

The Subject Member stated to the Investigating Officer that he had never received any formal training on communications or the use of social media since becoming a Parish Councillor.

Acting in a capacity as a Councillor

In order for there to be a finding that the Subject Member was in breach of the Parish Council Code of Conduct it was necessary to establish whether the Code applied during the time of the alleged behaviour of the Subject Member.

The Sub-Committee noted the following from the Rowde Parish Council’s Code of Conduct:

Pursuant to section 27 of the Localism Act 2011, Rowde Parish Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council, including the business of the office to which they were elected or appointed, or when they claim to act or give the impression of acting as a representative of the Council.

The Sub-Committee agreed that the Subject Member was acting in his capacity as an elected Member during his attendance at the informal meeting held on 12 June 2023, at the Parish Council meeting on 14 June 2023 and during his interactions on the WhatsApp group chat and his message to another councillor during 18 to 19 June 2023. Accordingly, the Sub-Committee was satisfied the Code was in effect.

Conclusions

Although the accounts of what was said at the informal meeting differ, the Sub-Committee noted that all of the statements concurred that there was a disagreement between the Subject Member and the Complainant and her husband, and that the Subject Member had referred to the Complainant in a way that portrayed her as an extension of her husband rather than as an individual.

The Sub-Committee considered the audio recording of the public Parish Council meeting held on 14 June 2023 and agreed that whilst it appeared a somewhat chaotic meeting, despite there being little structure or control exercised by the Chairman, there was no clear evidence that the Subject Member had breached the code of conduct in his attempts to dominate the discussion on the matter of the changing rooms.

The Sub-Committee agreed that the Parish Council as a whole would benefit from some training on meeting etiquette, the role of the Chairman and the code

of conduct to enable it to function more effectively in a positive manner moving forward.

The Sub-Committee considered the WhatsApp messages sent by the Subject Member on 18 and 19 June 2023, combined with the conduct on 12 June 2023 at the informal meeting did represent a pattern of behaviour that fell within the provided definitions of bullying as set out in the report.

On balance, the Sub-Committee was satisfied that the Subject Member had breached the following sections of the Rowde Parish Council Code of Conduct:

- I. He/she shall behave in such a way that a reasonable person would regard as respectful.
- II. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.

Sanctions

The Sub-Committee sought the view of the Investigating Officer in relation to recommendation of any sanction. The Investigating Officer made no comment.

During the Hearing, the Subject Member was notified of the procedure for making representations on sanctions if the Sub-Committee found that a breach had taken place. The Subject Member was given the opportunity to be contacted by telephone on the day of the Hearing to make any such representations.

The Sub-Committee withdrew once more into private session for deliberation and, after consulting the Independent Person and noting the comments of the Subject Member, resolved to recommend that Rowde Parish Council impose the sanctions as set out above, as a result of a breach of the Code of Conduct.

(Duration of meeting: 10.30 am - 12.20 pm – 12:20pm)

The Officer who has produced these minutes is Lisa Alexander of Democratic Services, direct line 01225 718504, e-mail lisa.alexander@wiltshire.gov.uk

Press enquiries to Communications, direct line 01225 713114 or email communications@wiltshire.gov.uk