

Standards Hearing Sub-Committee

MINUTES OF THE STANDARDS HEARING SUB-COMMITTEE MEETING HELD ON 11 OCTOBER 2023 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Allison Bucknell (Chairman), Cllr Bill Parks, Julie Phillips (non-voting) and Cllr Graham Wright

Also Present:

Jed Matthews (Investigating Officer), Cllr John Eaton (Southwick Parish Council – Complainant), Cllr Elizabeth Snell (Southwick Parish Council – Subject Member), Kieran Elliott (Democracy Manager – Democratic Services), Perry Holmes (Monitoring Officer), Lisa Alexander (Senior Democratic Services Officer), John Baker (Witness), John McAllister (Independent Person), Henry Powell (Virtual), Jane Eaton.

1 Election of Chairman

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

Resolved:

To elect Councillor Allison Bucknell as Chairman for this meeting only.

2 Declarations of Interest

There were no declarations.

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 COC145647 in respect of Councillor P.E Snell, Southwick Parish Council**

The Hearing was in relation to complaint COC145647 made by Councillor John Eaton of Southwick Parish Council (The Complainant) regarding the alleged conduct of Councillor P.E Snell, to be referred to as Elizabeth Snell, also of Southwick Parish Council (The Subject Member).

Investigating Officer Representations

Jed Matthews, Investigating Officer, presented his investigation report into the alleged conduct, as set out with the agenda papers circulated to all parties.

It had been alleged that on 28 April 2023 the Subject Member made claims of improper behaviour and a lack of transparency by the Complainant in respect of a local planning matter to a local news reporter during a phone conversation. It was further alleged she had then sought to coerce the newspaper from giving evidence.

In doing so it had been alleged that the Subject Member breached the following sections of the Southwick Parish Council Code of Conduct:

Paragraph 2.1 I do not bully any person.

Paragraph 5.1 I do not bring my role or local authority into disrepute.

Paragraph 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

The Investigating Officer briefly summarised the detail of the report, and his conclusion there had been a breach in respect of Paragraphs 2.1 and 5.1 as detailed above. He noted the Subject Member's stated perception that she had been acting in a personal capacity during the phone conversation with the local reporter but drew attention to the guidance within the Code approved by the Parish Council, on acting in a way which would give a reasonable member of the public with knowledge of all the facts that someone was acting as a councillor.

John Baker was then called as a witness by the Investigating Officer. Mr Baker was the local reporter who had spoken to the Subject Member and perceiving there to be serious accusations made regarding the Complainant, had sought his comments in relation to a potential news story, which had prompted the formal complaint.

Mr Baker confirmed that his statement and submissions as detailed in the agenda papers were in his view accurate. In response to questions from the Investigating Officer he provided details on why he had considered the Subject Member to be acting in an official capacity, and the nature of the conversation involving other parish councillors and matters involving the Parish Council.

Complainant Statement

Councillor Eaton, as the Complainant, then made a statement in accordance with procedure. He stated that the unevidenced allegations made against him had caused significant personal distress to himself and his family. He detailed what he considered a history of animosity from the Subject Member, which he believed arose due to their disagreements over potential development within the parish, and provided alleged examples of other actions he believed demonstrated that animosity. In summary of the complaint, he stated that false allegations had been made to a Wiltshire Times reporter, and that the Subject Member had not shown any contrition for her actions.

Questioning of Investigating Officer and Witness

The Subject Member was then able to ask questions of the witness and Investigating Officer.

Councillor Snell sought details about the content of the reporter's notes, contending that some elements of the discussion had not been included and other matters had been embellished. Mr Baker provided details from his notes about her stating she had a personal interest in the application on the nearby site, about a suggestion villagers might receive a discount on some properties, and other matters relating to the developers. The Subject Member also asked whether the notes stated she had made it clear she lived opposite the potential development site and that was the reason for her concerns, as she recalled doing, but Mr Baker stated that was not in his notes.

The Sub-Committee then had the opportunity to ask questions of the Investigating Officer and the witness, supported by the Independent Person.

Details were sought from the witness about the words alleged used by the photographer who had alerted him to the Subject Member wishing to speak to a reporter about certain parish matters, and what she had asked the photographer. Mr Baker stated he had asked the photographer ahead of the Hearing, and he had not been able to recall the exact words used, though had felt the Subject Member was concerned about improper actions in respect of the development.

Further questions were asked about the accuracy of the reporter's notes, which he confirmed, the Subject Member's demeanour, and whether he had addressed her as Councillor Snell during the conversation, which he stated he had. He confirmed he had not met either Complainant or Subject member prior to the incident in question, though had spoken on the phone with the Complainant before regarding the Neighbourhood Plan. In response to queries he stated the photographer was known to more people locally, and alerted him to the Subject Member wanting to speak to a reporter, and he contacted her a few days later.

Subject Member Representations

Councillor Snell then made her representations to the Sub-Committee. She stated the complaint had been embellished with innuendo which the Investigating Officer appeared to have accepted. She denied that she had

threatened the editor of the Wiltshire Times or the reporter Mr Baker, only that she had contacted them after being aware their conversation had been recorded, stating this was without her knowledge or consent and sought detail of if it had been relayed to a third party. She denied allegations by the Complainant she had sent letters anonymously to a charity to which he was involved.

In respect of the phone conversation with the reporter she stated this was also embellished and missing key details. She reiterated that in her mind at that time of speaking she had been speaking as a private individual and not as a parish councillor, and that this had been disregarded by the Investigating Officer. She said as with any member of the public she had a right to speak about a local planning matter, and she had raised with the reporter that she had a personal interest.

Councillor Snell further stated in hindsight she regretted speaking with the reporter and should have been more explicit about the capacity in which she was speaking. She considered the inclusion of unsubstantiated allegations by the Complainant within the report should not have been included and were prejudicial, and suggested unconscious bias was a factor.

She stated she made no allegation of corruption by the Complainant but referred to rumours in the village about the supposed discount for villagers, and the reporter had put his own extravagant construction on that comment, which she regretted making.

She denied she was motivated to make her comments due to hatred as s alleged by the Complainant, but considered his actions suggested he was so motivated, and he would not accept her apology. She referenced an incident around the time of the parish elections in May 2021 regarding a misleading election leaflet she had reported to Wiltshire Council, which she then sent as advised to the Police. She sought to introduce a document regarding that statement but was advised new evidence could not be submitted at this stage.

In summary Councillor Snell says her land interest had been stated to not be relevant in another complaint, and that Councillor Eaton's own actions had not been open and transparent regarding contact with developers and planning officers. She accepted she should not have spoken with Mr Baker but denied making any threats to him or making any degrading comments regarding Councillor Eaton, whom she felt had embellished many details.

Questioning of the Subject Member

The Investigating Officer followed by the Sub-Committee then had the opportunity to ask questions of Councillor Snell.

The Investigating Officer asked why she had contacted a reporter whom she had confirmed she had never met to have a private conversation if there was no intention to publish any story. The Subject Member stated she had spoken to him as independent, unbiased and open view to what she thought was incorrect behaviour.

The Sub-Committee supported by the Independent Person then questioned the Subject Member.

In response to queries it was confirmed she had not been a parish councillor before being elected in May 2021. Details were asked about why she had stood, and concerns around planning in the village. The level of training provided as a parish council, which was only a few online seminars, was asked about.

The Subject Member was asked how she felt about her stated assumption that a conversation with a reporter would be private, and she replied that in hindsight it may have been silly but it had not occurred to her at the time that he would think she was a councillor. She was also asked about a meeting of local people referred to in the evidence, which was stated to be an informal gathering, and details of the application site which had been a cause of dispute.

The Subject Member was asked if she stated to the reporter she was speaking as a private individual, and she stated she did not as she assumed he would think she was speaking as an individual. Clarity was sought on if he referred to her as Councillor Snell, and she replied she thought he had said Elizabeth, but could not recall.

There were further questions on her purpose in speaking to a reporter about the local planning matter and the Complainant, who was Chairman of the Parish Council. Councillor Snell stated she had thought he would put his view forward, not in an article, but as part of a personal conversation, and that she had not expected a publication. She stated she had never had cause to contact a member of the press as a councillor before.

She was asked if she had been seeking a conversation from an independent person, why she had chosen a Wiltshire Times reporter. She stated she had spoken with the photographer, who she stated lived in the parish, and he had suggested speaking to Mr Baker, whom she did not know.

Questions were asked about events leading up to the conversation with the reporter. The Subject Member provided details of a parish council meeting about whether to request the Unitary Councillor to call-in the planning application over when she and others were concerned, where a casting vote was used by the Complainant, as Chairman, to not do so.

Details were sought on the alleged rumour that villagers might receive a discount for some of the properties proposed to be built. In response to queries it was stated that the rumour was that any villager might receive such a discount, and she had heard a rumour the Complainant might. She was asked whether during the conversation with Mr Baker she referred to the rumour about the Complainant possibly receiving a discount, which was confirmed, and whether it was mentioned the alleged rumour also applied to others, which the Subject Member stated she was not sure if she had mentioned.

Concluding Statements

The Investigating Officer made a concluding statement, in which he explained he was guided by individuals on how they preferred to be addressed in communications, and that the manner of that address did not indicate any unconscious bias as suggested by the Subject Member.

The Subject Member made a concluding statement that matters had been exaggerated upon, and she accepted she had made a mistake in contacting the press.

Deliberations

Following the concluding statements, and preceding that the hearing from the parties, the witness in accordance with the agreed procedure, including a statement from the Complainant, the Sub-Committee withdrew into private session at 1100, together with the Independent Person, the representative of 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 1210 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 at the Hearing, testimony from the witness, and the statement of the Complainant, the Sub-Committee concluded on the balance of probabilities that Councillor Elizabeth Snell of Southwick Parish Council breached the Parish Council's Code of Conduct under the following provisions:

Paragraph 2.1 I do not bully any person.

Paragraph 5.1 I do not bring my role or local authority into disrepute.

Reasons for Decision

Background

1. Both the Subject Member and Complainant are Members of Southwick Parish Council, with the Complainant currently serving as Chairman.
2. Following the phone discussion between a local reporter and the Subject Member on 28 April 2023 regarding a local planning matter and other issues, the local reporter contacted the Complainant for comment on allegations they believed had been made regarding the Complainant in his role as a Parish Councillor. This led to the submission of a complaint on 21 May 2023.

3. The differing accounts of the phone discussion will be explored in the next section, but the basic situation was that in discussing a local planning matter it was allegedly suggested that the Complainant was, as a Councillor, behaving improperly in a way which had caused others concern, in particular some councillors, in relation to that matter, and that he might receive a discount on a large property from developers. The Subject Member disputed that such an allegation was made.
4. Southwick Parish Council have adopted the model LGA Code of Conduct. This includes the provisions which were alleged to have been breached as detailed above, as well as explanatory text to aid in the interpretation of whether a specific action or behaviour meets the requirements of those provisions, as well as generalised text on when the Code applies and in what situations.

Scope

5. It was apparent from submissions to the Investigating Officer that there was some history of disagreement between the Subject Member and Complainant on a variety of local matters, in particular relating to planning and potential development within the parish. This had caused a degree of dispute between them which had on occasion spilled over into personal disagreement and accusations of poor behaviour, and the submissions included some detail and additional allegations on that past disagreement to seek to provide additional context.
6. However, notwithstanding that history the Hearing focused upon the allegations specifically relating to the phone discussion on 28 April 2023 which was the principal subject of complaint. Details of other matters raised by either party will be included within the minutes.

Acting in a capacity as a Councillor

7. 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 discussion with the local reporter.
8. The Subject Member maintained in her submissions and at the Hearing that she had regarded the conversation as a personal, private matter, as she lived near to the application site to which she had concerns. In response to the complaint, she stated she had accepted it was a mistake to speak to the reporter about the matter and should have been more explicit about speaking as a member of the public.
9. The Sub-Committee noted the following from the Code of Conduct:

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- *you misuse your position as a councillor*
- *Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;*

10. Although some aspects of the phone conversation were disputed, such as whether the Subject Member had been addressed as Councillor during the call, whether she had confirmed her living close to the site, and whether all detail of other matters was included within the reporter's notes of the conversation, it was not in dispute that the Subject Member had discussed other parish councillors and parish council relevant business during the call as well, and by her own account had not taken any steps to clarify the role in which she was speaking.
11. The witness testimony of the local reporter and his notes made clear that his impression was that the Subject Member had been speaking in her capacity as a councillor. Further, that she had raised matters about parish council business and possible complaints about the Complainant in his role as Chairman of the Parish Council, in addition to matters specifically relating to planning concerns about an application.
12. It was accepted that the Subject Member had been on the Parish Council for only not quite two years at the time of the phone conversation, and inexperience or naivety may have contributed to her not realising she needed to be more explicit about the capacity in which she was making comments. It was acknowledged that the line between personal and official business could at times be unclear.
13. Nonetheless, whatever the Subject Member's sincere personal feelings about the nature of the conversation, the requirement of the Code was whether her actions would give the impression to a reasonable member of the public with knowledge of all the facts that she was acting as a councillor, not whether she considered herself to be acting so.
14. In discussing parish council relevant business and the conduct of the Complainant in his role as a fellow councillor and Chairman of the Parish Council, the Sub-Committee agreed that a reasonable person would have had the impression the Subject Member was acting as a councillor, as indeed the local reporter confirmed at the Hearing he had so considered.
15. Accordingly, the Sub-Committee was satisfied the Code was in effect and they needed to establish on the balance of probabilities the facts of the conversation between the Subject Member and the local reporter.

Phone Conversation

16. The Subject Member had raised the matter of the contentious planning application with a photographer who worked for the newspaper, and who was also a resident in the village and an acquaintance of some degree.
17. The local reporter testified the photographer had asked him to contact the Subject member in relation to concerns about the Chairman of the Parish Council and the Neighbourhood Plan, and in relation to a planning application.
18. The local reporter had provided details from his notes of his conversation with the Subject Member. These included that a number of councillors were unhappy

about the Complainant, they had held a meeting to discuss making a formal complaint about his conduct, made vague allusions to 'something going on' which could not be pinpointed, that he was not informing the parish council of everything he was doing, and similar allegations relating to parish councillors and the Chairman.

19. The notes and testimony were that the complaints seemed to relate to a planning application in the village, and that the Subject Member stated there had been lots of comments about the plans and she had a personal interest in the matter.
20. The Subject Member stated that the reporter's account was embellished and included innuendo not of her making. She further stated the account did not include all details, and that she had been motivated by concerns about planning development and how it was being handled. She refuted that she had made any allegation of corruption, only that she had mentioned a rumour about villagers and discounts, and the reporter had added his own extravagant construction to that, and she regretted mentioning it.
21. It is noted for the decision notice that in her initial response to the complaint the Subject Member stated she contacted the reporter as a "concerned parishioner regarding a planning matter in the hope that the Wiltshire Times could help to highlight the issues". Whilst disputing she made any allegation of corruption and other matters, she concluded that "I did email the reporter as I was unable to speak to him on the phone and asked him not to do anything as I had second thoughts about it". The reporter's notes confirm the day after conversation he was asked not to publish a story at that moment by the Subject Member. Subsequent interviews with the Subject Member state she had not expected the reporter to take the matter further or expected any publication from her discussion with him.

Conclusions

22. The notes from the reporter suggested a direct accusation had been made that the Complainant was being offered a discount by a developer if he wished to purchase one of the houses proposed to be built. The Subject Member disputed this in submissions and at the Hearing, as detailed above. The notes as provided by the reporter do not use the words corruption but refer to a 'serious allegation' about the Complainant specifically receiving a discount.
23. The Sub-Committee felt it could not establish with certainty the precise words used, given the disputed accounts. Nonetheless, from the accounts it appeared there had been accusations regarding the conduct of the Complainant in addition to the raising of issues to do with the planning application, and mention of a rumour of villagers getting discounts for properties. The Subject Member could not confirm at the Hearing if she had mentioned the existence of the rumour generally or only specifically in relation to the Complainant. The reporter stated the implication he received was that the Complainant might be receiving one of the properties, though the Subject Member stated she did not believe she had said anything which might be considered degrading regarding the Complainant.

24. On balance, the Sub-Committee was satisfied that in the course of the discussion with the local reporter the Subject Member had given the impression to the reporter that the Complainant had been behaving in an improper manner regarding the planning application, and this had included potentially taking up an offer of a discount on a property. Whatever the precise words that were used, and notwithstanding other topics being included in the discussion as confirmed by both accounts, a professional reporter had understood the comments to include such an accusation.

25. In considering whether the action amounted to a breach of Paragraph 2.1, the Sub-Committee considered the Code guidance on bullying.

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.

26. Bullying behaviour could, in some cases, be the result of a one-off incident, and was not necessarily obvious or blunt. The Sub-Committee found that the comments made had the effect of either undermining, humiliating, denigrating, or injuring the recipient, particularly as they could have been reported widely, even if neither the denigration nor the potential publication had been the Subject Member's intention.

27. The Sub-Committee therefore resolved that there had been a breach of Paragraph 2.1.

28. The Sub-Committee was also unpersuaded by the Subject Member's explanation at the Hearing that she had wished to discuss the planning matter with the local reporter, without any expectation of a report or publication following the conversation.

29. The Subject Member had never met the local reporter and stated at the Hearing she had not known who he was prior to their phone conversation. It was therefore unclear to the Sub-Committee for what reason the Subject Member would wish to have a private conversation about a local planning matter and concerns about the conduct of the Chairman of the Parish Council with a local reporter unknown to her personally, in the absence of any intention for the matter to potentially be reported. Even supposing the conversation had not been solicited and there was no wish for a publication to emerge as a result, a reporter unknown to the Subject Member phoning about a contentious local matter would reasonably have been presumed to have been doing so regarding a potential news item, even if only on the specifics of the planning matter.

30. Although the Subject Member had subsequently requested the story not be published and made complaints to the editor of the newspaper about the

conversation she said she believed to have been private being relayed to a third party, her actions could have resulted in serious accusations about another member of the Council being widely distributed. Had the reporter not contacted the Complainant for comment on the accusations he believed to have been made, and in reaction to that the newspaper deciding not to proceed with the story, there would have been dissemination of damaging allegations without accompanying foundation, bringing the Complainant and Parish Council into disrepute as a result of the Subject Member's comments.

31. Whilst Paragraph 5.1 of the Code makes clear a councillor can hold their council and fellow councillors to account, including expressing concern about decisions and processes, the Sub-Committee considered that the actions of the Subject Member in this instance were reckless and exceeded that function.
32. As the Code sets out holders of public office should be aware that their actions might have an adverse impact on themselves, other councillors, their authority or council, and may lower the public's confidence in their ability to discharge their function. In making comments to a reporter which were taken to be serious accusations of improper behaviour by the Complainant, the Subject Member had brought her role and that of the Council into disrepute.
33. The Sub-Committee therefore resolved that there had been a breach of Paragraph 5.1.
34. In relation to whether there had been a breach of Paragraph 8.3 of the Code, the Sub-Committee noted this was in the context of Paragraph 8.2 relating to co-operating with a Code of Conduct investigation or determination.
35. The Subject Member had contacted the local newspaper to complain about the conduct of the local reporter in respect of their conversation. The Investigating Officer had concluded that there was no evidence to indicate the complaint was made with the intention of affecting any Code of Conduct investigation.
36. Accordingly, the Sub-Committee agreed with the finding of the Investigating Officer that no breach of Paragraph 8.3 had occurred.

Sanctions

1. The Sub-Committee sought the view of the Investigating Officer in relation to recommendation of any sanction. The Investigating Officer made no comment.
2. The Subject Member had not returned to the Hearing following the Sub-Committee withdrawing into deliberation, as she had work matters which required her attention. The clerk to the Hearing contacted her by telephone to advise her that in the event the Sub-Committee determined a finding of a breach of the Code of Conduct, as Subject Member she was entitled to be asked her view of an appropriate sanction.
3. The Subject Member confirmed verbally that she was not able to return to the Hearing, and that matters could proceed in her absence without a comment on appropriate sanction, in the event a breach was determined.

4. The Sub-Committee withdrew once more into private session at 1215 for deliberation and, after consulting the Independent Person, resolved to recommend that Southwick Parish Council impose the following sanctions as a result of the finding of a breach of the Code of Conduct:

- i) That the Parish Council arrange training for Councillor Snell regarding Code of Conduct matters, in particular relating to the role of a Councillor and when they could be considered acting in an official capacity, and regarding interactions with the media.**
- ii) That Councillor Snell not be appointed to or remain on any planning related sub-committees or working groups established by the Parish Council, until such training has taken place.**
- iii) That the Parish Council publish the findings of the Hearing Sub-Committee, in the form of the decision notice, in the minutes of the next Parish Council meeting.**

(Duration of meeting: 10:00-12:40)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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