

Meeting	Joint Standards Committee Hearings Sub-Committee
Date	18 April 2024
Present	Cllrs Lomas And Fisher (CYC Members) Cllr Chambers (Parish Council Member) Mr J Leigh (Independent Person)
Officers in Attendance	Lindsay Tomlinson (Deputy Monitoring Officer) Peter Cairns (Senior Lawyer) Ms R Mazza (Independent Person – Observing)

5. Appointment Of Chair (1:30pm)

Resolved: That Cllr Lomas be appointed as Chair of the meeting.

6. Declarations Of Interest (1:30pm)

Members were asked to declare at this point in the meeting any disclosable pecuniary interests or other registerable interests they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests.

No interests were declared.

7. Exclusion Of Press And Public (1:31pm)

Resolved: That the press and public be excluded from the meeting during consideration of the private reports at Agenda Item 4 (Code of Conduct Complaints received in respect of a Parish Councillor), on the grounds that they contain information relating to individuals and information likely to reveal the identity of individuals, which is classed as exempt under paragraphs 1 and 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as

amended by the Local Government (Access to Information) (Variation) Order 2006.

[Note: following the above resolution, the Deputy Monitoring Officer confirmed that she had nothing further to add in respect of the public reports in the agenda papers, and the remainder of the meeting took place in private session.]

8. Complaint Against A Member Of A Council Covered By The Joint Standards Committee (1:32pm)

The Panel considered a complaint from an officer of the Council alleging that Cllr Mark Warters had breached the Code of Conduct by using racially discriminatory language and behaving in a manner that was disturbing, disrespectful and upsetting. The officer further alleged that Cllr Warters had shared confidential information about a customer with a third party, and that he had displayed aggressive and discourteous behaviour to the wider team over a period of time. The complainant maintained that these actions and behaviours were contrary to the City of York Council Code of Conduct. The matter had been referred to the Hearings Sub-Committee for determination following an investigation.

The investigating officer presented his report and responded to questions from the panel. The Panel members considered the evidence gathered by the Investigating Officer from the complainant.

The Investigating Officer explained that Cllr Warters had initially agreed to meet to be interviewed; having changed the date of the interview Cllr Warters then advised via email that he would not meet or correspond with the Investigating Officer.

In that email, Cllr Warters provided an explanation for his use of the term that the complainant claimed was racially offensive. The Panel accepted that the subject member had been provided with ample opportunity to contest both the alleged facts and the issue of whether those facts amounted to a breach of the Code.

The Panel noted that Cllr Warters refused to co-operate further with the investigation process, however they were prepared to accept a number of late submissions received by Cllr Warters in the days leading up to the Hearing.

The Panel adjourned for 15 minutes to allow all members the opportunity to read the submissions received. The Panel considered the submissions did not offer mitigation for the issues referred to by the complainant, and that some of the submissions strengthened the case of the complainant.

The Panel accepted the investigating officer's analysis of the facts with and concluded as follows:

- i. The use of the term referred to by the complainant can be considered a breach of the Code of Conduct due to its potential to cause distress, irrespective of its factual nature.
- ii. Councillor Warters' aggressive and discourteous communication, while rooted in frustration, is a breach of the Code of Conduct's emphasis on respectful behaviour.
- iii. While the sharing of address information might be deemed justifiable in the given circumstances, it raises concerns regarding privacy and confidentiality expectations. The Council's data breach reporting process is therefore the appropriate route to thoroughly assess and determine the implications of this issue.

Having considered the Investigating Officer's report and the Local Government Association guidance and advice of the Deputy Monitoring Officer, as well as the late submissions provided by Cllr Warters the Panel

Resolved: That the Investigating Officer's findings that Cllr Warters had breached the code on several counts be upheld;

Reason: The Panel unanimously agreed that the Code of Conduct had been breached in respect of:

- Rule 1 (Respect)
- Rule 2 (Bullying, harassment and discrimination as a Councillor)
- Rule 5 (Disrepute as a Councillor)
- Rule 8 (Complying with the Code of Conduct as a Councillor)

Sanctions

The Panel considered what, if any sanctions should be imposed for the breach. In doing so they

Resolved:

- i. That Cllr Warters will be requested to attend appropriate Equalities and Diversity training.
- ii. A restriction will be placed on Cllr Warters' ability to communicate directly with staff in the relevant team. The Monitoring Officer is delegated to determine, in consultation with the Chief Operating Officer, the level of seniority of staff within the team with whom Cllr Warters will be permitted to communicate. This restriction will be for an initial period of six months, and the Monitoring Officer is delegated to extend the restriction after the initial term, should he consider it necessary to do so.

Cllr K Lomas, Chair

[The meeting started at 1.30 pm and finished at 2.54 pm].