

Joint Standards Committee Hearings Sub-Committee

Thursday, 18 April 2024

Decisions

Complaint Against A Member Of A Council Covered By The Joint Standards Committee

City of York Council Constitution Appendix 29: Joint Standards Committee Procedures

Paragraph 34 Decision Notice (Hearing)

Dated: 24/04/2024

Date of Complaint	16/10/2023
Date of Initial Assessment by DMO	20/10/2023
Hearing Date	18/04/2024
Independent Person	Joe Leigh

Panel

The Panel comprised Councillor K Lomas (Chair), Councillor T Fisher and Parish Councillor C Chambers. The Panel is not required to be politically balanced.

The Independent Person's views were provided to the Panel and taken into account at all relevant times in the procedure. The Independent Person was not a voting member of the Panel.

The Hearing

The Panel resolved to exclude the Press and Public from the meeting due to the consideration of exempt information defined as "Information relating to any individual" and "Information which is likely to reveal the identity of an individual". They noted that such information is exempt information if the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Whilst the Panel was aware the subject member and one complainant had expressed that they did not require the matter to be kept confidential, the Panel were

mindful that there were other individuals involved, and that there was a need to maintain staff and public confidence in the ability to raise complaints.

The Complaint

On 16th October 2023 the Monitoring Officer received a complaint from an officer of the Council (Officer A) alleging that Cllr Warters had breached the Code of Conduct by arranging by copying a number of members of the public and Parish Councillors into a formal complaint that he had made about the officer's conduct.

On the same day, Officer B, who is Officer A's line manager, also made a complaint to the Monitoring Officer. The complaint related to the same incident i.e. the copying of the complaint about Officer A to third parties, but gave greater detail as to why this was considered to be a breach of both the Member/Officer Protocol and the Member Code of Conduct.

Decision – Findings of fact on the balance of probability

The Panel members considered the report of the Investigating Officer and the supplementary pack comprising two additional emails presented by the subject member and one email from officer A.

The Panel heard from the Investigating Officer that Cllr Warters had declined to contribute to the investigation and declined to attend the hearing. The subject member made no representations challenging the facts contained in the investigating officer's report and consequently witnesses were called.

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

1. Cllr Warters intentionally copied a number of members of the public into correspondence relating to the complaint against Officer A;
2. In doing so, Cllr Warters acted in breach of para 4.4 of the Protocol for Officer / Member Relations;
3. The actions of Cllr Warters created a real possibility that the reputation of Officer A would be damaged and their working relationship with the persons copied into the email would be undermined.

Was there a breach?

Members of the Panel considered the LGA guidance set out in the report and the facts set out by the Investigating Officer as well as the supplementary pack. The Panel were unanimous in their decision that the Code of Conduct had been breached in the following respects:

Cllr Warters acted in breach of rule 1 of the Code of Conduct in failing to treat Officer A with respect.

Decision – Sanction

Where a Hearings Panel makes a finding of breach of the Code it may impose one or more of the sanctions listed in the case handling procedure (p726 Constitution) or impose no sanction.

The Panel considered the investigating officer's recommendation on sanctions and heard the Independent Persons' views.

In particular, it took into account the following factors:

- Cllr Warters is an experienced member of more than one local authority and can be taken to be familiar with the requirements in relation to officer/member relations;
- Cllr Warters has not acknowledged that there may have been a breach of the Code;
- The lack of engagement with the investigation process;
- The absence of any commitment to avoiding similar breaches in the future.

The Panel agreed that it was proportionate and appropriate to apply the following sanctions:

1. Formal censure; and
2. Restriction of communication with staff in the relevant service area to officers of Assistant Director level and above, such communication to be professional in tone and in all other respects in accordance with the principles set out in the Protocol on Officer Member Relations.

The Panel further recommended that the Monitoring Officer should carry out a review of the information security implications of the use by Cllr Warters of his personal email address for Council business and be authorised to take such action as is necessary to manage any information security risks identified.

The Independent Person

For transparency, the Independent Persons' views were that there had been a breach of the code and sanctions should be imposed.

There is no internal right of appeal against this decision.

All parties will be notified of the Hearing Panel's decision.

A decision notice will be published on the Council website within 5 working days of the Hearings Panel decision.

Signed

Councillor K Lomas
Chair of Hearings Panel