

Standards Hearing Sub-Committee

8 March 2022

Public Report

Report of the Monitoring Officer

Complaint received in respect of a Parish Councillor

Background

Two separate code of conduct complaints were brought by two Parish Councillors against two other Parish Councillors. All are involved with the same Parish Council.

Two Investigating Officers, from City of York Council were asked to investigate these two complaints.

Report A considers:

Allegation 1:

A Parish Councillor acted in a manner that would have been perceived by a reasonable person as disrespectful and as bullying and intimidating towards another councillor at the Parish Council Meeting held in November 2020, stating amongst other things that the parish councillor was 'a negative impact to the village', 'a racist' and 'a bigot'.

Allegation 2:

That the Chairman of the Parish Council improperly conferred a disadvantage on a person through age discrimination in the co-option of a councillor at the Parish Council Meeting held in October 2020.

Allegation 3:

A councillor improperly conferred a disadvantage on a person through a flawed co-option process at the Parish Council Meeting held in November 2020, specifically through holding a 'secret meeting' and failing to provide reasons for the decision not to co-opt the said person.

The investigating officer found in relation to allegation 1 that a reasonable person would have found the Parish Councillors comments in respect of the other councillor to be disrespectful and that the complaint is founded in this respect but unfounded in respect of bullying and intimidatory behaviour.

In relation to allegation 2 the investigating officer found insufficient evidence that the Parish Councillor was responsible for conferring any improper disadvantage on a person under the Code of Conduct due to their age. Complaint 3 of the Parish Councillor conferring an improper disadvantage through a 'secret meeting' process also unfounded.

Report B considers:

Allegation 4:

The Parish Councillor acted in a disrespectful and bullying and intimidating manner towards the parish council clerk in his emails of 28 November 2020.

The investigating officer concluded that the complaint was unfounded.

The second investigating officer's report considers:

Allegation 5:

That the Parish Councillor allegedly acted unlawfully in respect to the Co-option process relating to a person, and has not provided the Parish Council with sufficient reasons for preventing this person's Co-option.

Allegation 6:

That the Parish Councillor conferred a disadvantage on an individual by preventing them from actively participating in a meeting on the erroneous basis that they had a disclosable pecuniary interest in what was to be discussed at the meeting.

The investigating officer is of the opinion that the Parish Councillor did breach the Code of Conduct by failing to adhere to the Standing Orders and Code of Conduct of the Parish Council in respect of the co-option process.

The panel have received a copy of the complaints, the investigating officer's reports, as well as a copy of the Parish Council's Code of Conduct.

The Investigation Reports have been shared with the parties.

The Code of Conduct

As required by the Localism Act 2011, the Parish Council has adopted a Code of conduct which sets out the conduct expected of Councillors when acting as such. Particularly relevant to this complaint are the following sections:

General Duties as to Conduct

3. (1) *You must treat others with respect.*

(2) *You must not do anything which may cause the Council to breach any equality enactment.*

(3) *You must not bully or intimidate any person, or attempt to bully or intimidate them.*

[omitted]

(8) *You must not use your position as a Councillor improperly to obtain any advantage or disadvantage for yourself or any other person, or attempt to do so.*

Definition of disclosable pecuniary interests

(2) *A disclosable pecuniary interest is an interest of a kind described in the first schedule to this Code. An interest is disclosable if the interest is of yours or of your partner. Your partner means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.*

Non participation in items of business in the case of disclosable pecuniary interest

(3) *Where a matter arises at a meeting which relates to one of your disclosable pecuniary interests,*

(a) *You may not participate in any discussion of the matter at the meeting.*

(b) *You may not participate in any vote taken on the matter at the meeting.*

(c) *If the interest is not registered, you must disclose the interest to the meeting.*

(d) *If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.*

The Hearing Process

The Joint Standards Committee has approved a procedure for hearings. In line with that procedure the complainant and subject member have been asked to indicate whether they intend to attend the hearing, to identify facts which they say are in dispute, and provide their views as to whether any part

of the hearing should be in public. These responses have been shared with the Panel.

Issues to be determined

Have the Councillors breached the Code of Conduct?

In the event that the Sub committee finds that the Code has been breached, it will need to determine whether a sanction should be imposed and if so, what sanction.

Implications

Financial

Not applicable to this report.

Human Resources (HR)

Not applicable to this report.

Equalities

The Equality Act 2010 places specific duties on Local Authorities, including the presence of a clear and concise Code of Conduct which prohibits unlawful discrimination and gives the public confidence in Councillors. Ensuring that the Code of Conduct is maintained meets the Nolan principles and also supports the prohibition.

Legal

As detailed within this report.

Crime and Disorder, Information Technology (IT) and Property

Not applicable to this report.

Other

Not applicable to this report.

Contact Details

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Report **Date** 25 February 2022
Approved

Wards Affected: Rural West York

All

For further information please contact the author of the report

Background Papers:

- City of York Council Code of Conduct and Procedure for Handling of Complaints
- City of York Council Constitution