

Standards Hearing Sub Committee

7 September 2021

Complaint against Councillor Warters

Complainant: Mr and Mrs Moore
Subject Councillor: Councillor Warters
Investigator: Gerard Allen

Background

This complaint is brought by Mr and Mrs Moore against Councillor Warters who is a City Councillor. The complaint relates to an allegation that Councillor Warters was aggressive and discriminatory towards the complainant and the operation of their business during a telephone call. During the course of the investigation an email sent by Councillor Warters came to light which Gerard Allen, the investigating officer considered as part of the investigation.

Gerard Allen did not find a breach of the Code in relation to the telephone call as it was one person's word against another and the accounts differed. In relation to the email, Gerard Allen found that a breach of the Code had occurred, namely that Councillor Warters failed to treat the complainants with respect. The complaint and also Mr Allen's report can be found at Annex A and B. City of York Council's Code of Conduct can be found at Annex C.

The Investigation Report has been shared with the parties. One of the Independent Persons, Mr Laverick has also been consulted. Having taken their views into account, the Monitoring Officer accepted the findings within the report and initially sought the view of Councillor Warters as to whether he would offer an apology to Mr and Mrs Moore by way of resolution. Councillor Warters stated that he was not prepared to issue an apology, therefore, the Monitoring Officer referred the matter for a Hearing.

The Complaint

The complaint appears in full at Annex A, but can be summarised as follows:

- (a) Councillor Warters was aggressive and discriminatory towards the complainants and the operation of their business and failed to treat them with respect.

The Code of Conduct

As required by the Localism Act 2011, City of York Council has adopted a Code of conduct which sets out the conduct expected of Councillors when acting as such. The Code of Conduct appears at Annex C. Particularly relevant to this complaint are the following sections:

“General Duties as to Conduct

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

The Hearing Process

The Standards Committee has approved a procedure for hearings which can be found at Annex D. In line with that procedure the complainant and subject member have been asked to complete a pre hearing check list indicating whether they intend to attend the hearing, to identify facts which they say are in dispute, and state whether any part of the hearing should be in public.

A completed pre hearing check list has been returned by Mr and Mrs Moore and Councillor Warters responded by email.

Mr and Mrs Moore’s form can be found at Annex E. It will be noted that Mr and Mrs Moore agree with the facts found by the Investigating Officer.

Councillor Warters’ email in response to the checklist can be found at Annex F. Councillor Warters stated that he had previously provided a long and detailed statement after receipt of the complaint that explained his position regarding the complaint and the facts that he disagrees with. He stated that he had also entered into correspondence highlighting the situation whereby an unsubstantiated complaint based on a telephone call could ever reach an investigation because the facts could never be established.

Issues to be determined

Has Councillor Warters breached City of York Council’s 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 the report.

Crime and Disorder, Information Technology and Property

Not applicable to this report.

Recommendations

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Janie Berry

Director of Governance &

Monitoring Officer

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**Report
Approved**

Date

27 August
2021

Specialist Implications Officer(s):

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

- **Annex A –Complaint**
- **Annex B – Investigating Officer’s report**
- **Annex C – City of York Council’s Code of Conduct**
- **Annex D – Hearing procedure**
- **Annex E - Pre hearing check list completed by complainant**
- **Annex F – Email responding to pre hearing check list completed by subject Councillor**