

Complaint

Report to the Monitoring Officer, City of York Council, into complaints against Parish Councillor Steven Hardcastle who is a member of Deighton Parish Council.

From Walter Burns, appointed as Investigating Officer for this complaint by Janie Berry, Monitoring Officer, City of York Council.

The Complaint referred for Investigation and Background

There are two complaints directed against Cllr Hardcastle (Cllr). One of them also cites the Parish Council. However, only individuals can be in breach of the Code of Conduct (the Code). Both complaints are of a similar nature so I have been asked to deal with them both together.

[REDACTED] The other is from Mrs E.Hale, a member of the public and a local resident who was herself a parish councillor on the DPC for many years up to 2019, then holding the position of Vice Chair. The two Forms of complaint are attached at annex A, but in summary:

- [REDACTED]
- Mrs Hale states the Cllr has a personal animosity against her and that he has delayed her application to be co-opted back onto the council because of this. She refers to the Chair's Statement of 2020 as evidence of this.

Relevant Provisions of the Code of Conduct

The Code of Conduct for the DPC is attached at Annex B and the following Member obligations I believe, are relevant:

1. he/she shall behave in such a way that a reasonable person would regard as respectful.

[REDACTED]

3. he/she shall not seek to improperly confer an advantage or disadvantage on any person.

The Investigation

I carried this out mainly during February 2021 having been allocated the matter in January.

I interviewed both complainants (one over the phone and the other on Skype) during the week commencing 1st February and the Cllr on the 12th February on Zoom. The methods of contact were chosen by the interviewees and there were no time restrictions placed on the discussions. I did not interview anyone else as I felt there was enough written evidence produced to ascertain the salient facts.

I requested any further evidence from each party both before the initial interview and again afterwards if something was raised during it. There were a number of additional pieces of evidence produced after the interviews which took some time to consider before I could draft this report. I did however permit Cllr Brack who is also on DPC (Vice Chair) to submit some documents and to make a written statement in the interests of fairness. This was despite him contacting me in an unsolicited manner and threatening to make a complaint against me if I did not comply.

Documents which were considered in addition to the complaint forms, the parish council's Standing Orders and its Code of Conduct were:

[REDACTED]

- b) **In respect of Mrs Hale's complaint** – her application letter to be co-opted of March 2020; an extract from the Local Elections (Parishes and Communities)(England and Wales)Rules 2006; an email from the Cllr before he was elected referring to [REDACTED]; a letter subsequently sent to her by the Cllr on behalf of the PC in January 2021 informing her of the outcome of her application.
- c) **In respect of the Cllr's interview** – [REDACTED] emails from Mrs Hale when she was a Cllr on DPC including comments about the Cllr and containing a reference to a gun; various minutes of the PC relevant to the complaints; emails between the Cllr and the Yorkshire Local Councils Associations (YLCA); [REDACTED] [REDACTED] Some of these emails emanated from another Cllr (Brack) on the PC but were produced by Cllr Hardcastle. As such I did not see a need to interview this other councillor despite Cllr Hardcastle's request. As noted above Cllr Brack nevertheless contacted me of his own accord.

All these can be made available to the Monitoring Officer and any panel.

Interviews and consideration of evidence

In each of the complainants' interviews, I confirmed the nature of the complaints which were agreed. I went through the written evidence produced and asked my own questions if there was anything which needed clarifying. [REDACTED]

Mrs Hale gave me context and background of the recent history including during her time as a councillor; [REDACTED]

[REDACTED] and we discussed the issue with the Cllr feeling the then PC had not in the past supported him in a planning matter before he was elected

The Cllr's interview mainly centred on explaining [REDACTED] [REDACTED] and explaining the investigation process and the conversations he had had

with the YCLA. A discussion took place around the role played by the PC as a body in all these matters.

During the interviews with the complainants reference was made to derogatory comments made by the Cllr and actions he took, most of which were not supported by documentary evidence and could not therefore be proved. An example of this is a written note of complaint to the PC regarding the Cllr's 2020 statement. It is referred to in one of the forms but it was not produced. Another example is the Cllr is alleged to have said in response that he would "go round and speak to them" which the complainant found alarming. I understand a letter was actually sent instead, so the account of some events are reported speech only and thus impossible to confirm.

The Chair's Statement was part of one of the complaint forms and the Cllr confirmed it was correct and that he and the Council stood by it. The Cllr also produced quite a few of the documents dealing with the issues raised and referred to by the complainants (i.e., some of the emails with the YCLA, PC minutes and copies of emails exchanged when one of the complainants was a councillor. Some of these emails originated from another Cllr on the PC).

Finding and conclusions

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Re Mrs Hale's complaint:-

I do believe that the paragraphs within the Chair's Statement 2020 which she has appended to her complaint form (from the paragraph starting " Unfortunately , before that , I feel I must make reference ...") are inappropriate for a public document and are ones which a reasonable person may well regard as disrespectful . Both to [REDACTED] and to the Councillors referred to. [REDACTED]

[REDACTED] I would point out however that although the Statement is produced by Mrs Hale, it is done so primarily to show the animosity between her and the Cllr. Her complaint is not about the Statement contents themselves (even though I presume she does not approve of them). So the Monitoring Officer may decide that no judgment is to be made about this aspect.

I believe the delay in dealing with her application to be co-opted was too long, despite the problems presented by the pandemic .This does in my view represent disrespectful behaviour. It was a decision ,I accept , made or backed by the whole Council and not by the Cllr individually but , as stated in the 2020 Statement , he would resist any attempt for certain people to re-join the Council and in fact would resign if that were to be the case . As a Chair of the organisation it was clear what his personal opinions were and this made it very difficult for a fair decision to be made by the PC in respect of the application to be co-opted.

It may well be that other members of the PC felt the same way but it is a personal statement which could be taken as seeking to make an advantage from his position or to confer a disadvantage on another. In this respect, I believe there has been a breach of the Code.

The decision not to co-opt may have been justified for the reasons given in the letter to the complainant in January this year (not a fit and proper person based on the behaviours when last in office) .However, the presumption of bias against the candidate /complainant was clear following the Chair's Statement, thus creating a perception of unfairness and animosity .

Walter Burns
7th April 2021

Annexes

Annex A – Complaints made by [REDACTED] and Mrs Hale
Annex B – Deighton Parish Council Code of Conduct