

Standards Hearing Sub-Committee

18 December 2023

Public Report

Report of the Monitoring Officer

Complaint received in respect of a Parish Councillor

Background

1. On 16 April 2023 the Monitoring Officer received a complaint from a resident alleging that a Parish Councillor had breached the Code of Conduct by arranging for their election leaflet to be circulated with the Parish Council materials. The resident expressed concern that the newsletter was publicly funded and its distribution at the same time as election literature constituted an attempt to secure an advantage (use of parish resource and influence to assist in winning an election campaign.)
2. The complaint was considered by a Joint Standards Committee Sub Committee on 26 June 2023 and referred for investigation by a Senior Lawyer employed by City of York Council.
3. The investigating officer's report has been completed and provided to the subject member for comments and must now be considered by a Joint Standards Committee Hearings Committee in accordance with the Case Handling Procedure set out at Appendix 29 of the Constitution.
4. The investigating officer is of the opinion that the Parish Councillor did breach the Code of Conduct.
5. The panel have received a copy of the complaint, the investigating officer's report, as well as a copy of the Parish Council's Code of Conduct.

The Code of Conduct

6. 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 requirements of members:

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

He/she shall use the resources of the Council in accordance with its requirements.

7. The Local Government Association publishes guidance on complaints handling which is referred to as a background document. Key aspects of that guidance regarding misuse of position are:
- a. Councillors should not use, or attempt to use, their public office either for their own or anybody else's personal gain or loss;
 - b. Most decisions will inevitably benefit some people and will be to the detriment of others. It's important when you make those decisions to make them in what you think is the public interest and not be influenced by private interests.
 - c. The term 'improperly' is not defined in the Code of Conduct. This ensures that the scope of the provision is not unnecessarily limited. The underlying principle is that councillors are elected or appointed to public office to serve the public interest.
 - d. Any conduct that unfairly uses a councillor's public position to promote private interests over the public interest will be improper
8. With regard to misuse of resources the Guidance states:
- a. "You may be provided with resources and facilities by your local authority to assist you in carrying out your duties as a councillor. Examples include: office support, stationery, equipment such as phones, and computers, transport, access and use of local authority buildings and rooms.
 - b. These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

- c. You must make sure you use the authority's resources for proper purposes only. It is not appropriate to use, or authorise others to use, the resources for political purposes, including party political purposes. When using the authority's resources, you must have regard, if applicable, to any Local Authority Code of Publicity made under the Local Government Act 1986."
9. It also highlights the following:
- a. You should never use local authority resources for purely political purposes, including designing and distributing party political material produced for publicity purposes;
 - b. Your authority may authorise you to use its resources and facilities for legitimate political purposes in connection with your authority's business. For example, holding surgeries in your ward and dealing with correspondence from your constituents. In this case, you must be aware of the limitations placed upon such use for these purposes. Using your authority's resources outside of these limitations is likely to amount to a breach of the Code of Conduct.
 - c. Resources could include any land or premises, equipment, computers, and materials. The time, skills, and assistance of anybody employed by the authority, or working on its behalf, are also resources, as is information held by the authority which it has not published.
 - d. Often it is impractical to separate a councillor's political campaigning from carrying out their duties as an elected ward member, such as when they hold surgeries or deal with correspondence from constituents.
 - e. You must ensure that there is a sufficient connection between the use of resources and the business of the authority. Only improper use of resources will be a breach of the Code of Conduct.
 - f. You should be particularly scrupulous about the use of authority resources when elections are pending, particularly those resources relating to publicity. When using the local authority's resources in these circumstances, you should not appear to be seeking to influence public opinion in favour of you, your party colleagues, or your party.

The Hearing Process

10. 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

11. Has the Councillor breached the Code of Conduct?
12. 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** 6 December 2023
Approved

Wards Affected:

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