

City of York Council
Joint Standards Committee Hearings Sub-Committee
Thursday, 30 September 2021

Decision Notice

Attendance:

Panel Members of the Hearings Sub-Committee:

Cllr C Douglas – Chair

Cllr T Fisher

Cllr C Chambers (Parish Councillor)

Advisors to the Hearings Sub-Committee:

Ms A Davies – Independent Person

Miss J Berry – Monitoring Officer, City of York Council

Mrs R Antonelli – Deputy Monitoring Officer, City of York Council

Investigating Officer:

Mr W Burns, Senior Solicitor, City of York Council

Subject Member:

Cllr S Hardcastle – Deighton Parish Council. Cllr Hardcastle's representative, Mr Brack was also in attendance.

Complainant:

Mrs Hale. Mrs Hale's representative, Mrs Mercer was also in attendance.

Background

The Hearings Sub-Committee

The Sub-Committee was constituted in accordance with procedures approved by the City of York Council Joint Standards Committee to consider a complaint in relation to the conduct of Councillor Hardcastle.

The procedure for the conduct of the Sub-Committee was circulated to all Parties as part of the agenda for the Sub-Committee.

The hearing took place in public with the agreement of all parties and the Panel made the decision to exclude the press and public for the following aspects of the hearing:

- Instances whereby the Panel seeks legal advice;
- Deliberations by the Panel Members; and

- Decision-making prior to the public declaration of the decision.

The Complaint

The Panel was concerned with a complaint made in relation to the conduct of Councillor Hardcastle by Mrs Hale.

The Panel received a report from Mr W Burns, Senior Solicitor with City of York Council, who had been appointed by the Monitoring Officer to investigate the complaint. Mr Burns was appointed as a Deputy Monitoring Officer for the purposes of undertaking this particular investigation. Mr Burns was instructed to follow the published procedure when undertaking his investigation.

Mr Burns' report is dated 7 April 2021, and a copy of the same was circulated to all as part of the agenda for the Sub-Committee hearing.

Facts considered by the Panel

The Panel decided at the outset that the main areas of dispute for them to determine were:

- Mrs Hale believes that Councillor Hardcastle had a personal animosity against her and that he delayed her application to be co-opted onto Deighton Parish Council due to this.
- The Investigating Officer found that the content of the Chair's statement of 2020 was inappropriate and that a reasonable person may well regard the statement as disrespectful. The Investigating Officer found that the statement made it clear what Councillor Hardcastle's personal opinions were, which made it difficult for a fair decision to be made by the Parish Council and that the presumption of bias against Mrs Hale was clear following the statement.
- Councillor Hardcastle disagreed with the Investigating Officer's report; he believed the process to be flawed and biased. He felt that the Investigating Officer's refusal to interview seven witnesses resulted in him being treated unfairly. In addition, Councillor Hardcastle felt that the complaint contained allegations which had not been proven. Councillor Hardcastle stated that the investigation referred, in his view, incorrectly, to the fact that the application had been delayed, therefore, he believed that

the whole investigation had not been carried out on the specific allegation stated in the complaint.

The Panel considered the allegations in light of the Joint Standards Committee's published criteria for the assessment of complaints.

Evidence and Findings of Fact

Mrs Hale's complaint relates to an allegation that Councillor Hardcastle has a personal animosity towards Mrs Hale and that he had delayed her application to be co-opted back onto the Council because of this. Mrs Hale referred to the Chair's statement of the Annual Meeting of the Parish Council in 2020 as evidence of this.

As detailed within the Investigators Report, Councillor Hardcastle stated that he stood by the Chair's statement which he confirmed was correct.

The Panel explored the action taken to process Mrs Hale's application for co-option to Deighton Parish Council. The Panel noted that her application had been submitted in March 2020; however, it was not determined by the Parish Council until January 2021. The Panel questioned Councillor Hardcastle as to the reasoning for this lengthy resolution and queried the steps he took to receive advice from his Clerk and/or the Yorkshire Local Council's Association. The Panel considered carefully the explanations put forward in particular in relation to the Covid pandemic. The Panel noted that there were 3 meetings where this could have been considered. The Panel was not persuaded by the reasoning provided by Councillor Hardcastle which could satisfactorily address the delay.

The Panel also queried whether Councillor Hardcastle was aware of Deighton Parish Council's Standing Orders in respect of co-option of Parish Councillors. The Panel was not satisfied by the vagueness of Councillor Hardcastle's responses to questions and remained concerned as to his potential lack of knowledge of the Council's governance arrangements. The Panel formed the view that as Chair of the Council, Councillor Hardcastle ought to have made himself aware of the relevant Standing Orders.

All of the parties were given the opportunity to make representations during the Hearing; it is noted that Councillor

Hardcastle left the Hearing before his opportunity arose. Councillor Hardcastle was given the opportunity to return to the Hearing, or for his representative to make representations on his behalf; however, Councillor Hardcastle declined the opportunity and withdrew from the Hearing.

The Panel heard representations from the Investigating Officer and Mrs Hale. Mr Burns set out that the main point for his consideration was to look at the feelings between the parties and the delay in the application to co-opt and whether this led to a breach of the code of conduct.

Mrs Hale stated that she believed that the Parish Council Standing Orders clearly stated the procedures around co-option and that she felt that there were certain things which the Councillor chose to ignore.

Conclusion

In respect of the areas of dispute, the Panel make the following findings:

1. Mrs Hale believed Parish Councillor Hardcastle had a personal animosity towards her – the Panel considered the Chair's 2020 statement which has been referred to as part of this complaint. The Panel determined that this statement clearly referred to Mrs Hale and Councillor Hardcastle's comment that he "will resist any attempt for these individuals to rejoin the Council" was directed towards Mrs Hale, amongst others. In the Panel's view this supports the proposition that there was animosity towards Mrs Hale.
2. That there was a delay in Mrs Hale's application to be co-opted – the Panel are satisfied that there was clearly a delay in dealing with Mrs Hale's application. The Panel accepted that the delay was 10 months, when there were opportunities to have dealt with the application. It was Councillor Hardcastle's responsibility, as Chair of the Parish Council, to ensure that such applications should be dealt with in a timely manner and that his animosity towards Mrs Hale may have negatively impacted on the timescale. The Panel determined that the explanations given for the delay including the Covid pandemic and seeking external advice were insufficient to account for the length of the delay.

3. Chair's 2020 Annual Statement – the Panel find that it is reasonable that the comments made by Councillor Hardcastle in his capacity of Chair of the Parish Council breached the Nolan principles and did not demonstrate respect to others.

4. The Panel noted the comments made by Councillor Hardcastle in relation to the procedure; however, the Panel remained satisfied that the procedures surrounding the management of this Hearing had been adhered to, noting that the procedures are published on the Council's website. It is unfortunate that despite being given the opportunity, Councillor Hardcastle did not remain to present his final submissions to outline further details of his concern to the Panel.

Taking into account the points above, the Panel has decided to uphold the Investigating Officer's findings that Councillor Hardcastle has breached Deighton Parish Council's Code of Conduct.

Sanctions

The Panel makes the following sanctions:

1. Formally report the findings of the Panel to the Parish Council.
2. Recommend that the Parish Council arrange mandatory training for Parish Councillor Hardcastle around Chairing Skills, including the Code of Conduct and Parish Council Governance.

Other Observations

There appeared to be a lack of knowledge of procedures and roles. In light of this, the Panel wish to bring to Deighton Parish Council's attention the following observations:

- The Parish Council would benefit from training on the Code of Conduct.
- Training for the whole Parish Council around agenda setting and Parish Council procedures.
- Take the opportunity of the support and services of the Yorkshire Local Council's Association and maximise the support available.

It is recommended that such opportunities are also offered to the Parish Council Clerk.

The Panel will provide the Yorkshire Local Council's Association with a copy of this decision notice.

Councillor C Douglas
Councillor T Fisher
Councillor C Chambers