

Standards Hearing Sub Committee

2 September 2022

Complaint against Councillor Cuthbertson (City of York Council)

Complainants: Councillor Mark Guilford (Haxby Town Council)

Subject Councillor: Councillor Cuthbertson (City of York Council)

Investigator: Stephen Pearson, Freeths Solicitors

Background

The complaint was brought by Haxby Town Councillor Mark Guilford, against Councillor Cuthbertson of City of York Council.

The complaint relates to the following allegations:

- The Councillor is alleged to have behaved in a disrespectful manner towards Councillor Guilford, having described the Town Council as a “dysfunctional” organisation which was being “run like a wild west town” and verbally attacking Councillor Guilford;
- It is alleged that Councillor Cuthbertson demanded to speak at a Town Council meeting and when the Chairman refused permission he described Councillor Guilford as being a “*dictator*” and “*undemocratic*” as part of what Councillor Guilford regards as a politically motivated campaign against the Town Council;
- Within a meeting of the Town Council Recreation and Open Spaces Committee he is alleged to have “*erupted in a fit of anger*”, threatening to file complaints and making insults, whilst insisting that, as a City Councillor, he had “*oversight*” over Town Council decisions;

- It is alleged that Councillor Cuthbertson took over a meeting with Yorkshire Water concerning local complaints over sewerage/flooding, in order to secure maximum publicity for himself and to undermine the Town Council.

The Investigating Officer, Stephen Pearson of Freeths Solicitors, was asked to investigate the complaint. The Complaint and Mr Pearson's report can be found at Annex A. City of York Council's [previous] Code of Conduct can also be found at Annex A. It will be noted from the report that Mr Pearson is of the opinion that Councillor Cuthbertson did breach the Code of Conduct by failing to treat Councillor Guilford and other Members of Haxby Town Council and the Clerk with respect in breach of paragraph 3(1) of the Code. Councillor Cuthbertson does not accept this opinion.

The Investigation Report has been shared with the Parties. The draft report was presented to the Joint Standards Committee Assessment Sub Committee on 9th August 2022, where the Sub-Committee referred the matter to a hearing so that the opinion arrived at by the Investigator and the views of Councillor Cuthbertson could be further explored.

The Code of Conduct for City of York Council

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 for City of York Council appears at Annex A. It should be noted that for this complaint, the Code pre October 2021 was the relevant Code of Conduct for City of York and it is this Code which the Investigator has considered. Particularly relevant to this complaint are the following:

- 3(1) – “You must treat others with respect”
- 3(3) – “You must not bully or intimidate any person, or attempt to bully or intimidate them”
- 3(7) – “You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council into disrepute, or your position as a Councillor into disrepute”

The Hearing Process

The Joint Standards Committee has approved a procedure for hearings which can be found at Annex B. 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 private. These responses have been shared with the Panel.

As part of this pre-hearing activity Councillor Cuthbertson has provided additional emails and a position statement which can be found at Annex C.

Mr Pearson has requested the attendance of one witness, Councillor Carmichael.

Issues to be determined

Has Councillor Cuthbertson 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 supports the prohibition.

Legal

As detailed within the report.

Crime and Disorder, Information Technology and Property

Not applicable to this report.

Author & Chief Officer Responsible for the report:

Janie Berry

Director of Governance &

Monitoring Officer

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**Report
Approved**



Date 24th August
2022

Specialist Implications Officer(s):

Wards Affected: Haxby Ward

All

For further information please contact the author of the report

Background Papers:

- Annex A – Investigating Officers report
- Annex B – Hearing Procedure
- Annex C – Position Statement and additional material provided by Councillor Cuthbertson