

STANDARDS COMMITTEE

Decisions of the meeting of the Standards Committee held on Friday, 30 June 2023 in the Council Chamber - Council Offices at 10.00 am

NORTH NORFOLK DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING PANEL

30 June 2023

DECISION NOTICE

Committee Members	Cllr H Blathwayt (Chairman) Cllr A Brown Cllr P Porter Cllr L Shires Cllr N Dixon
Legal adviser to the Panel	Ms C Jordan
Subject Member	Cllr Richard Shepherd (not in attendance)
Investigating Officer	Ms M Clark
Independent Person	Mr C Monteith (not in attendance)

PRELIMINARY	<p>In addition to those detailed above, the complainants, Cllr Withington and Ms Prince attended the hearing.</p> <p>The hearing was to determine whether or not the Subject Member breached the Sheringham Town Council Code of conduct with regard to five incidents, comprising of social media posts and a conversation with a member of the public.</p> <p>The Committee considered two preliminary issues, namely the questions of whether to hear the matter in public or private session, and whether to proceed in the absence of the Subject Member.</p> <p><u>Preliminary issue 1</u></p> <p>1. <u>Whether to hear the matter in public session or in private.</u></p> <p>The Committee asked for the views of the Investigating Officer who indicated that the matter, in her view, could be in public. The Independent Person had provided his written view that hearing the</p>
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	<p>matter in public seemed right. The Monitoring Officer informed the Committee that the two complainants had written to say they considered the matter should be in public and had confirmed to her just prior to the hearing that this remained their view. Both indicated to the Committee that this was so. Finally, the Monitoring Officer informed the Committee that she had emailed the Subject Member on two or more occasions inviting him for his views on this issue, but that he had not provided such.</p> <p>The Monitoring Officer provided advice to the Committee as to the consideration of holding the hearing in public or private session.</p> <p>The Committee considered this preliminary issue and resolved that the matter should be heard in public.</p> <p><u>Preliminary issue 2</u></p> <p>2. <u>Whether the matter should proceed in the absence of the Subject Member</u></p> <p>The Investigating Officer was invited to make any comments on this issue. The Monitoring Officer provided information relating to the contact made with the Subject Member to inform him of the hearing date. She advised the Committee that he had subsequently made contact, indicating that he was unlikely to attend and that he thought it the best thing to do would be for the Committee to continue without him present. The Monitoring Officer informed the Committee that she had responded and given him the opportunity to respond with written comments and representations on matters relating to the report, but none had been received.</p> <p>The Monitoring Officer advised the Committee that where a person is not present for their hearing and it proceeds, the hearing must be as fair as possible in the circumstances.</p> <p>The Committee considered the matter and resolved to proceed in the absence of the Subject Member.</p>
<p>ALLEGATIONS</p>	<p>In summary, five incidents were complained of, alleging that the Subject Member breached the STC code of conduct</p> <p>A summary of the incidents complained of are, that the Subject Member:</p> <ol style="list-style-type: none"> i. Made a social media post criticising a local support group (Hosting Ukrainian Group Support) and Councillor Withington ii. Made a Facebook post with an image of Baconsthorpe Castle and an accompanying comment “Photo of the Bloody Tower where Libs (one in particular!) may be beheaded...” iii. Made a Facebook post alleging that someone had thrown weed

	<p>killer over his lawn.</p> <ul style="list-style-type: none"> iv. Made a social media post about parking/double yellow lines where he commented upon Cllr Withington in a negative way. v. Encouraged a member of the public to make a Code of Conduct complaint and encourage police involvement so as to endeavour to remove Cllr Withington as a councillor. <p>And that such conduct, if proved, breached the Sheringham Town Council Code of Conduct.</p>
<p>SHERINGHAM CODE OF CONDUCT</p>	<p>The Sheringham Town Council Code of Conduct was considered. Particular regard was had to the following provisions, including the explanatory text found in the Code of Conduct below each of these requirements:</p> <p>Paragraph 1 – Respect “As a councillor: I treat other councillors and members of the public with respect...”</p> <p>Paragraph 2 – Bullying, harassment and discrimination “As a councillor: I do not bully any person. I do not harass any person I promote equalities and do not discriminate unlawfully against any person...”</p> <p>Paragraph 5 – Disrepute “As a councillor: I do not bring my role or local authority into disrepute...”</p>
<p>EVIDENCE HEARD</p>	<p>The Panel members</p> <ol style="list-style-type: none"> 1. Read all the documents before them, including the Investigator’s report and appendices. 2. Heard oral submissions from the Investigating Officer 3. Heard representations from the complainant 4. Considered the views of the Independent Person
<p>INDEPENDENT PERSON ASSESSMENT</p>	<p>The Independent Person was not present, but had provided his comments in writing which were read out at the hearing.</p> <p>The Independent Person considered that the Subject Member appeared to act in his capacity as a councillor. In summary, he commented as follows:</p> <ul style="list-style-type: none"> i. Made a social media post criticising a local support group (Hosting Ukrainian Group Support) and Councillor Withington

The Independent Person noted that Subject Member has offered a qualified apology to the member of the public who helped set up this group thereby admitting some degree of responsibility.

The Independent Person considered that the conduct here shows a lack of respect for a fellow councillor that goes beyond: *“expressing, challenging, criticising and disagreeing with views, ideas, opinions and policies in a robust but civil manner”*, being a personal attack on a fellow councillor that is insulting and offensive and a core breach of the Code of Conduct: *“You should not, however, subject individuals, groups of people or organisations to personal attack.”* Further that it also brings the Sheringham Town Council into disrepute.

ii. Made a Facebook post with an image of Baconsthorpe Castle and an accompanying comment “Photo of the Bloody Tower where Libs (one in particular!) may be beheaded...”

The Independent Person commented that Subject Member does not appear to dispute that he was referring to Councillor Withington and that it is purely personal abuse, showing greater concern for disparaging those of political opposition than partaking in healthy discourse. The Independent Person considered this to be another personal attack that is insulting and offensive to Councillor Withington and another.

iii. Made a Facebook post alleging that someone had thrown weed killer over his lawn.

The Independent Person considered this to be a serious allegation of criminal damage: conduct that the Subject Member suggests was politically motivated, commenting that it clearly brings the Sheringham Town Council into disrepute. The Sheringham Town Council social media policy states:

“Information that is published should be factual, fair, thorough and transparent”.

The Independent Person concludes that the Subject Member’s suggestion of a politically motivated attack here is neither factual nor fair.

iv. Made a social media post about parking/double yellow lines where he commented upon Cllr Withington in a negative way.

The Independent Person comments that this displays a clear and obvious lack of respect, subjecting the individual to personal attack which is insulting and offensive – “imposing daft ideas” making unfounded statements that goes beyond reasonable debate. It is also an unfounded and incorrect statement made about Cllr Withington wanting to put yellow lines down as well as attacking her motives.

v. Encouraged a member of the public to make a Code of Conduct complaint and encourage police involvement so as to

endeavour to remove Cllr Withington as a councillor.

The Independent person provided comments as to a discussion alleged to have occurred in the hairdressers. He commented that, albeit hearsay at this time, the Subject Member made an offensive personal comment. The Independent Person agreed with that there had been a breach of the Sheringham Town Council Code of Conduct, based on a course of conduct. He agreed that the cumulative effect amounted to a failure to treat others with respect, bullying, and was an attack on Cllr Withington's personal integrity.

With regard to possible sanction if found to be in breach, the Independent Person commented:

I agree that the Subject Member offer an unfeigned written apology to Cllr Withington, and that he completes standards type training on Bullying and Harassment training and Social Media training.

I note that these allegations are also borderline offences under the Protection from Harassment Act 1997 where the Subject Member has clearly pursued a course of conduct that a reasonable person would think amounted to stalking and harassment of Cllr Withington- notwithstanding the greater tolerance allowed for elected officials, because of the degree of personal abuse involved. Moreover, the Subject Member does not appear to be acting in accordance with any law, or reasonably in his personal attacks, which might allow him a defence. The hearsay issue under item 6 could be simply remedied by obtaining a statement from one of the staff who overheard the Subject Member's comments.

However, the need for the Sheringham Town Council to make a referral to the police would be strongly mitigated by the Subject Member's genuine written apology to Cllr Withington backed by no further incidences of abuse of Cllr Withington, who could make her own compliant under the same Act, the need for which would again be strongly mitigated by an apology.

FINDINGS

The Committee considered all of the information before them, including the written and oral evidence.

With regard to the 5 alleged incidents it made the following findings:

The Committee is of the view that the subject Member was a councillor at the time of the incidents and was acting in his capacity as a councillor. He refers to another councillor, namely councillor Withington, talks about his being on the Town Council and discusses business relevant to the Town Council. Taking the incidents separately and collectively we consider he was acting in his official capacity.

We consider that Sheringham Town Council had a Code of Conduct in place at the time and we have considered the paragraphs which relate to respect, bullying and harassment, and bringing the council into disrepute.

With reference to the 5 incidents, we consider that, on the balance of probabilities, they did occur. None are denied by the Subject Member, though we have considered what he has said in regard to them in his communications.

Having found that the incidents occurred, we have considered whether they breach the Code of Conduct and we find that individually and taken together that they do.

The incidents, taken together, show intentional disrespect which is over a protracted period, and is repeated. The Code of Conduct details the requirement for respectful behaviour, and that there should not be bullying or harassment, but the Subject Member's conduct shows evidence of victimisation of a particular individual, who is repeatedly named. There are misogynistic comments which are not acceptable. A professional tone is not present. Words such as 'awful', 'dreadful', 'blame', 'sad' and 'stupid' are present as well as referring to an individual as "that bloody woman"

There is repeated, sustained and violent language. The beheading comment is borderline inciting others to act

Whilst it is understood that there is a right to freedom of speech, and members have enhanced protection, what is said goes beyond common decency and is abusive in tone and subject. To use the term 'ilk' and call for beheadings, as well as referring to Cllr Withington as that bloody woman is not acceptable and is derogatory. Whilst the Subject Member suggests that 'the beheading comment' was said in jest, he is a retired policeman, and such a comment, especially given the recent attacks on

	<p>Members of Parliament, David Ammes and Jo Cox, it is in no way humorous. It is concerning that there may be vulnerable persons who may not take the comment in the way the Subject Member says it was made.</p> <p>The Subject Member is a councillor of many years standing at both town and district level, and having also been a police officer, the inappropriateness of this conduct should be clear to him.</p> <p>The Committee, having considered the evidence, did find a breach of the Sheringham Town Council’s Code of Conduct in that these 5 incidents taken together breached the requirement to act with respect, not to harass and brought the Sheringham Town Council into disrepute.</p>
<p>DECISION</p>	<p>The Committee considers that the Subject Member did breach the Sheringham Town Council Code of Conduct.</p>
<p>CONSIDERATION AS TO SANCTION</p>	<p>The Committee, having found a breach, heard representations as to what, if any, sanction would be appropriate.</p> <p>The Committee, having considered the papers and any representations made, considered if there were any mitigating and aggravating factors and took the following into account:</p> <p><u>Aggravating factors</u></p> <ul style="list-style-type: none"> • As mentioned, this was conduct which was protracted and repeated. It was targeted towards a specific individual and had misogynistic overtones. Further the comment regarding beheadings was completely inappropriate for the reasons set out earlier. <p>The Committee considered the impact of this conduct on others. Such behaviour has the potential to (and to some extent has) negatively impacted upon</p> <ul style="list-style-type: none"> • individuals • on the Sheringham Town Council • on the community, including those who may be vulnerable, • on the Subject Member’s political party, and • on democracy <p><u>Mitigating factors</u></p>

	<p>The Subject Member made a suggestion that he would apologise to the member of the public, but this mitigation is minimal as the apology was qualified, rather than a clear offer of apology.</p>
<p>RECOMMENDATIONS</p>	<p>The Committee considered what recommendations should be made to Sheringham Town Council in respect of sanctions. It considered, with reference to its findings and the aggravating and mitigating factors, that the following sanctions would be appropriate and such are recommended to Sheringham Town Council:</p> <ol style="list-style-type: none"> 1. A report of the Standards Committee’s finding be made to the Sheringham Town Council 2. A formal censure be issued, proclaiming the disapproval of the Subject Member’s conduct 3. That an apology be made, in person by the Subject Member, to Cllr Withington and Ms Prince. Such apology is to be made at the next full council meeting of Sheringham Town Council that the Subject Member attends 4. In the event that the Subject Member is appointed to external bodies by Sheringham Town Council, such appointment is removed until such time as the training identified below, at recommendation 5, is completed. 5. The Committee recommends that the Subject Member be required to undertake and complete appropriate training as follows: <ul style="list-style-type: none"> • Standards training (Code of Conduct); • Training relating to bullying and harassment • Social media training; and • Equality and Diversity training <p>This training is to be completed within 6 months of the date of the hearing (30/6/23). Such training will be considered ‘appropriate’ where it is approved in writing by the Sheringham Town Council and will be considered as ‘completed’ where the Sheringham Town Council is satisfied that it has been completed and provides such confirmation in writing to the Subject Member.</p> <p><u>Additional recommendations to Sheringham Town Council</u></p> <p>It is recommended to the Sheringham Town Council that does arrange the training, identified within recommendation 5, within the period identified.</p> <p>It is further recommended to the Sheringham Town Council, if not</p>

	already in place, to consider adopting the “Debate not Hate” campaign and toolkit provided by the Local Government Association
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*[Original signed and dated by:
Cllr Harry Blathwayt
Panel Chair of the Standards Committee of 30 June 2023]*

PLEASE NOTE THAT THERE IS NO PROVISION FOR APPEAL AGAINST THIS DECISION