

STANDARDS COMMITTEE

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

Committee

Members Present:

Cllr H Blathwayt (Vice-Chairman) Cllr N Dixon
Cllr L Shires Cllr P Porter
Cllr A Brown

Officers in

Attendance:

Democratic Services and Governance Officer - Scrutiny (DSGOS),
Assistant Director for Finance, Assets, Legal & Monitoring Officer
(MO) and Finance & Legal Assistant (Investigator)

Also in

attendance:

Complainant - Cllr L Withington
Complainant - Ms Price

18 TO RECEIVE APOLOGIES FOR ABSENCE

Apologies were received from Cllr A Fitch-Tillett, Cllr G Bull and Cllr R Macdonald, with Cllr A Brown in attendance as a substitute.

19 ITEMS OF URGENT BUSINESS

None received.

20 DECLARATIONS OF INTEREST

- i. Cllr N Dixon declared that the Subject Member was known to him from a previous administration when they were Members of the same party. He added that the Complainant Cllr L Withington was also known to him, but stated that neither of these relationships would impact his judgement as a Member of the Committee.
- ii. Cllr L Shires declared that she was a member of the Liberal Democrat Group at North Norfolk District Council and the Complainant Cllr L Withington was known to her, and she was also aware of the Subject Member through various political campaigns.
- iii. Cllr P Porter declared that both the Subject Member and Complainant were known to her, but not to a degree that would influence her objectivity on the Committee. She added that she was also a Member of the Conservative Party.
- iv. Cllr A Brown declared that the Complainant was known to him but he was in no way pre-determined on the case to be discussed.
- v. Cllr H Blathwayt declared that the Complainant was known to him though he did not know the Subject Member, but this would not impact his objectivity as Chair of the Committee.

21 EXCLUSION OF THE PRESS AND PUBLIC

The MO stated that the first matters to consider were whether the Hearing should proceed in public or private session, and whether the Hearing should proceed in the absence of the Subject Member. She added that the starting position of any Standards Committee meeting should always be in favour of a public Hearing, which should only be held in private under limited circumstances where there is justification in law for doing so. It was noted that this related primarily to where individuals are or are likely to be identified by information contained in the report clearly able to identify individuals involved in the investigation. The MO stated that Members should therefore consider whether the public interest fell on holding the meeting in public or private, and this could be determined by the public's interest in transparency or member conduct. Matters against the public interest were stated to include specific circumstances that would present a compelling reason to debate the matter in private, such as protecting individuals privacy rights. The MO noted that whilst the report did identify individuals, the Complainants were in attendance at the meeting, and both had confirmed that that they were content for the meeting to proceed in public session.

Questions and Discussion

- i. The Investigator stated that she had no objections to the Hearing taking place in public in the interest of transparency, so long as no reference was made to sensitive data, and no third parties were identified by referring to them by name.
- ii. The MO stated that the Independent Person had been contacted and was supportive of holding the Hearing in public. Similarly the Subject Member had been given the opportunity to provide his preference on holding the Hearing in public or private on at least two occasions, to which he had not responded. She added that previous tribunal cases had operated on the basis that elected Councillors should expect more public scrutiny on their actions, in so far as they were relevant to their public office, and members of the public would therefore have an interest in Councillor conduct as it may influence future elections.
- iii. The Chairman asked whether it could be evidenced that the Subject Member had been contacted for their view on whether the Hearing should proceed in public or private, to which the MO replied that she had emails to confirm this.
- iv. Cllr N Dixon stated that he saw no reason to move into private session and was therefore supportive of continuing the Hearing in public.
- v. Cllr L Shires stated that she was supportive of holding a public Hearing, given that the investigation covered matters which had taken place in public.
- vi. Cllr P Porter agreed that the events leading to the investigation had taken place in public and she was therefore supportive of holding the Hearing in public.
- vii. Cllr A Brown stated that he agreed that the Hearing should be held in public.
- viii. The Chairman agreed that the Hearing should proceed in public.

RESOLVED

To hold the meeting in public session.

22 CODE OF CONDUCT COMPLAINT

Preliminary Matters

- i. The Investigator stated that whilst the Subject Member was not present for the Hearing, he had been given every opportunity to provide a response to the draft and final investigation report. She therefore recommended that the Committee proceed with the hearing in the absence of the Subject Member to avoid any further delays or costs.
- ii. The MO advised the Committee that if the Subject Member was absent from the Hearing, Members would need to consider whether they could fairly proceed in their absence. She added that the Human Rights Act outlined that the Subject Member had a right to a fair hearing, and when considering whether it was fair to proceed, Members would need to consider whether the Subject Member was aware of the Hearing, whether they had responded to attendance requests, and the Subject Member's view on whether it should proceed in public, private or be postponed. The MO referred to correspondence with the Subject Member where they had been advised of the Hearing and their right to respond to the investigation, with advice given that the Hearing may proceed in their absence. She added that the Subject Member replied that they were unaware of the nature of the complaint and would likely not attend, suggesting that it may be best for the Hearing to proceed in their absence. It was noted that the Democratic Services Team had also contacted the Subject Member to share the Committee agenda, and were subsequently informed that they had not been contacted by the MO, with correspondence then being re-sent, causing the Subject Member to say that they were unaware of the complaint and were not likely to attend. On this basis, the MO advised the Committee that in order to proceed with the Hearing, they had to be satisfied that the Subject Member was aware the Hearing was taking place, and that it would be held in a fair and appropriate manner.

RESOLVED

Committee Members agreed that they were happy to proceed with the Hearing in the absence of the Subject Member, following discussion of correspondence.

Investigator's Introduction

- iii. The Investigator gave a summary of the investigation relating to five of six allegations, and noted that the fourth allegation had been considered outside of the scope of the Committee. The remaining five included a social media post criticising a local support group, a social media post with Baconsthorpe Castle including a threatening comment likely relating to a Complainant, a social media post which implied weedkiller had been thrown over the Subject Member's garden in a politically motivated attack, a social media post relating to parking issues, and allegations of the Subject Member encouraging removal of a Complainant as a Councillor. She added that she would focus on allegations one to three and five to six, where evidence of a breach of the Sheringham TC Code of Conduct had been found.

- iv. The Investigator stated that the legal backdrop of the investigation began with the European Convention on Human Rights, which provided a fundamental freedom of expression to uphold opinions, receive and impart information without interference regardless of frontiers. She noted that this was a qualified right, which could be restricted if prescribed by law. It was noted that it was necessary in a democratic society to protect the rights and interests of others, therefore it was the burden of the Council to justify interference with these fundamental rights. In this instance section 28 of the Localism Act and the Nolan Principles required conduct to be consistent with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These principles sought to ensure that conduct in public life did not fall below the minimum standard expected, whilst also taking into account the importance of freedom of political expression. It was noted the Sheringham TC had adopted a Code of Conduct in August 2021. The Investigator stated that in case law, freedom of speech for elected individuals allowed for a degree of immoderate, provocative, emotive and non-rational speech, and noted that even aggressive, offensive, and shocking speech may have a place in the cut and thrust of political life. She added that whilst article 10 protected honestly made statements, it did not protect those known to be false, and personal abuse or false statements did not therefore benefit from the enhanced protections given to political expression. It was noted that treating people with respect should be expected from any reasonable person, and failure to treat others with respect would occur when unfair, unreasonable or demeaning behaviour was directed at one person by another.
- v. The Investigator stated that in order to make a finding against the Subject Member, Members must be satisfied that each of the allegations met the following criteria; at the time of the allegations the Subject Member was acting as a Councillor or representative of Sheringham TC, that on the balance of probabilities the alleged conduct occurred, and that the conduct comprised a breach of the Sheringham TC Code of Conduct. On capacity, it was noted that whilst there was no formal description of what the role of a Councillor included, it was likely that this would include promoting and representing the local authority in the local community, and acting as a bridge between residents and the authority, including interactions with the public, fellow councillors and local authority officers. The Investigator stated that the comments made by the Subject Member could all be considered political in nature, and it was therefore her opinion that the Subject Member had acted in their official capacity as a Councillor. She added that she was satisfied that the Subject Member was conducting the business of Sheringham TC, and acting as a representative of the Council on social media. With respect to breaching the Code of Conduct, the Investigator stated that for incident one the comments were entirely unnecessary and created an environment that could discourage community involvement in political activity. On incident two it was stated that the beheading comments, which had been defended by the Subject Member as humour, went well beyond the scope of the increased protections given to political speech, and instead represented personal abuse and the threat of violence which should not be tolerated. With regards to incident three, where the Subject Member had made an unfounded accusation, they had deliberately sought to mislead the public. On incident five relating to parking, the Subject Member made reference to 'daft ideas which would cost thousands', and the frequency of fault finding and nitpicking was deemed to be malicious in nature, which

showed harassment toward the Councillor Complainant that was an attack on their ideas and integrity, which ultimately brought Sheringham TC in to disrepute. On incident six, which involved the Subject Member attempting to convince a member of the public to seek to remove the Complainant from office, the Investigator stated that this was a deliberate attempt to seek out a complaint with use of derogatory, offensive and misogynistic language that should not be used by a Councillor with such experience. The issues were compounded by the Subject Member refusing to accept any wrongdoing, and their insistence that their actions had been entirely appropriate, despite clear opportunities to make an apology or reconsider their position, which would have demonstrated a higher degree of integrity and remorse. The Investigator therefore stated that it was her recommendation that the complaints related to a Councillor that took place during their time in office, which fell within the scope of the Standards framework, and whilst some allegations may seem relatively minor, the cumulative impact had to be taken into account. She added that they amounted to dogged personal attacks that showed a failure to treat others with respect, bullying, and an attack on the Complainant's projects and integrity, which brought Sheringham TC into disrepute and represented a breach of the Council's Code of Conduct.

Questions and Discussion

- vi. Cllr N Dixon noted in respect of incidents of five and six that there was no date provided and asked why this was, and whether any clarification could be given. The Investigator replied that screenshots were provided as part of the complaint with no discernible dates provided.
- vii. Cllr L Shires referred to all allegations collectively and stated that the language and comments throughout were threatening, and asked the Investigator whether they felt it incited hatred and violence towards the Complainants. The Investigator replied that the comments were violent and inappropriate in nature, and this is why she had recommended that they were a breach of the Code of Conduct.
- viii. Cllr A Brown stated that considering all allegations collectively seemed to suggest a pattern of behaviour by the Subject Member that raised the possibility of the incidents amounting to harassment of an individual which could require Police action. He asked whether this had been considered and whether officers had consulted with the Police on the matter. The MO replied that whilst there separate ways of dealing with matters such as bullying and harassment, the Committee had to focus on the Standards process. She added that any Police action would be a separate consideration to the process undertaken by the Council, and it was noted that officers had not contacted the Police in relation to any matters outlined in the report.
- ix. The Chairman suggested that the incidents appeared to show a fixation on an individual, then stated that the Council should have a duty of care to elected Members and asked whether Sheringham TC had acted in respect of this. The Investigator stated that Sheringham TC had a responsibility to report inappropriate behaviour, but NNDC could only act when this was reported. The MO stated that Town and Parish Councils could not investigate issues themselves, and had to refer matters to the District Council.
- x. The Complainant - Cllr L Withington stated that the Independent Person described the case as a 'ramping up of a long campaign', however the issues

had been at the same level for two years. She added that since 2019, when nominated to stand for election, offensive, abusive and misogynistic comments had been received from the Subject Member, and he remained unrepentant despite being a Chair of NNDC, and a District and Town Councillor for many years. She added that many people in the town were surprised that the Subject Member had been able to behave in such a way whilst serving as a Councillor. The Complainant stated that the sole aim of the Subject Member had been to stop her standing for election and once elected to hinder her actions as a Councillor, which had a significant negative impact on the town and brought Sheringham TC into disrepute. As a result, there were four vacancies on the Sheringham TC immediately after the local elections in May. She added that the second allegation impacted the wider community as the Subject Member had encouraged others to join his campaign to encourage violence. It was noted that this had stopped the Complainant from being able to visit the town centre for much of 2020, as people would verbally abuse her in the street and in shops. The Complainant stated that the beheading post was also particularly concerning for her family, as it presented a very real threat of violence. She added that sticker campaigns throughout the town had also been highly offensive, with Police involvement having little effect. It was noted that it was only because of the resilience of the Complainant, and the support received from friends, family and residents that she kept her going, and this is why it was so important to recognise the behaviour as unacceptable, inappropriate and dangerous. The Complainant stated that something had to be done to ensure this behaviour was stopped, so that people could enjoy the town, be free to support community groups and feel safe to stand for election.

- xi. The second Complainant - Ms Price stated that she had complained as a result of the attacks made by the Subject Member against the HUGS group, which had discouraged her and others from being involved in community groups. She added that she had also complained about the beheading incident, as she knew vulnerable residents with mental health issues that would be significantly affected by this type of behaviour which was unacceptable. It was noted that anything the first complainant was involved in was attacked, which had significantly limited activities in the community, and discouraged many from standing for election.

Subject Member's Comments

- xii. The Chairman asked whether any written representations had been received from the Subject Member, to which the MO replied that whilst the Subject Member had been given the opportunity to respond, they had chosen not to do so. She added that despite this, the Hearing had to be as fair as possible, and she therefore directed Members to the Investigator's report where the views of the Subject Member had been outlined. It was noted that the Subject Member 'had not intended to offend, and was willing to apologise where offence had been caused', but he did not accept that he had acted in a such a way that could be deemed as harassment, offensive, bullying, or disrespectful to the Complainants.

Independent Person's Comments

- xiii. The MO stated that the Independent Person was unable to attend the meeting but had provided written comments on the allegations. The Independent Person had stated that the Sheringham TC Code of Conduct

applied to Councillors when acting as a Councillor, or when giving the impression of acting as a Councillor to members of the public. It was noted that in all circumstances, the Independent Person was of the opinion that the Subject Member had given the impression that they were acting as a Councillor. On incident one, it was noted that the Subject Member's response to the accusation admitted some degree of responsibility, but also showed a lack of respect for a fellow Councillor, with comments representing a personal attack on an individual that was insulting, offensive and a core breach of the code, which brought the Town Council into disrepute. On the second incident, the Independent Person had stated that the Subject Member did not dispute that the comments were made in reference to the Complainant, and it was purely personal abuse which sought to disparage those of opposing political views and represented another personal attack that was insulting and offensive. On incident three, the Independent Person stated this was a serious and unverified allegation of criminal damage that brought the Town Council into disrepute, and suggestions of political motivations were neither factual or fair. On incident five, the Independent Person stated that it demonstrated a clear lack of respect, and subjected individuals to attacks that were personal and offensive. Finally on incident number six, it was stated that efforts to remove the Complainant as a Councillor included offensive personal comments and hearsay. Overall, the Independent Person had stated that the allegations did represent a breach of the Sheringham TC code of Conduct based on a course of actions and behaviour. He also stated that the cumulative effect amounted to a failure to treat others with respect, bullying, and an attack on the Complainants' personal integrity, and he therefore recommended that the Subject Member offer an unfeigned written apology to the Complainants and complete training on bullying, harassment and social media. It was stated that the Independent Person had also noted that the Subject Member's actions amount to borderline offences under the Protection From Harassment Act, not withstanding the greater tolerance allowed for elected officials. Furthermore, the Subject Member did not appear to be acting with law or reason which might allow him a defence. The Independent Person had stated that despite this, the need for Sheringham TC to make a referral to the Police would be strongly mitigated by the Subject Member making a full apology to the Complainant, backed by no further incidents.

The meeting was adjourned for a ten minute break

Closing Statements

- xiv. The Investigator stated that she was satisfied that the Subject Member was acting in his role as a Councillor during the incidents outlined, and had cumulatively breached the Sheringham TC Code of Conduct. She added that the Subject Member had been given ample opportunity to engage with the standards process and apologise, which may have helped to mitigate some of the breaches. It was noted that the Investigator found it surprising that a Councillor of the Subject Member's experience was not more astute to what could be considered good conduct.
- xv. The MO summarised the five allegations levelled against the Subject Member that fell within the scope of the Committee, and stated that the Committee needed to consider whether on the balance of probability they breached the Sheringham TC Code of Conduct. The incidents included a social media post criticising the HUGS group, a social media post with a

photo with comments relating to a beheading, a social media post about use of weedkiller, a social media post about parking over double yellow lines, and encouraging a member of the public to seek to remove one of the Complainants from her position as a Councillor. The MO stated that the Committee needed to consider whether the Subject Member was acting in their official capacity as a Councillor, to be determined by whether they had discussed the business of or represented the Council in the community, or acted as a bridge between residents and the Council. She added that the Committee would then need to consider on the balance of probabilities, whether the incidents outlined in the allegation occurred, taking into account the comments received from the Subject Member and Complainants. It was noted that Members would also need to balance the right to freedom of expression with the enhanced protection offered to politicians, though it was noted that clear personal abuse did not afford not any protection. Finally, Members would need to consider whether the Subject Member had breached the Sheringham TC Code of Conduct, with attention paid the outlined expectations for respectful behaviour. The MO stated that section 2 of the Sheringham TC Code of Conduct also outlined the definition of bullying, harassment, and offensive behaviour, which Members would need to take into consideration, alongside section 5 on bringing the Council into disrepute.

The Committee retired to consider the allegations

Findings

- xvi. The Chairman stated that the Committee had considered all information including written and verbal evidence and had made the following findings; that the Subject Member was a Councillor at the time of the incidents and was acting his official capacity as a Councillor as evidenced by his references to the Town Council, Town Councillors, and the business of the Council in his statements. Taking the incidents both separately and collectively, it was determined that the Subject Member was acting in his official capacity as a Councillor, and that at the time Sheringham TC had a Code of Conduct in place. It was stated that on the balance of probabilities, the allegations did occur, taking into account that none were denied by the Subject Member. The Chairman stated that having determined that the incidents had occurred, it had been determined that individually and collectively the allegations did amount to a breach or breaches of the Sheringham TC Code of Conduct. He added that collectively the incidents showed intentional disrespect over a protracted period that was repeated, and that the conduct showed victimisation of a particular individual with inappropriate, offensive, and violent language. It was noted that whilst their was enhanced protections for freedom of expression in political life, the statements used went beyond common decency and were abusive in tone and subject. The Chairman stated that whilst the Subject Member had claimed that the beheading comments were said in jest, he was a retired policeman, and taking into account violent and fatal attacks on Members of Parliament, it was in no way humorous. He added that the Subject Member had been a Councillor for many years at both Town and District level, and the inappropriate nature of his actions should be clear to him. It was noted that collectively the actions showed that the Subject Member had breached the Sheringham TC Code of Conduct by failing to treat others with respect, and as a result, had brought the Council into disrepute.

Sanctions

- xvii. The MO stated that where a breach of the Code of Conduct had been found the Committee could consider making recommendations on sanctions to the relevant Council, whilst ensuring that any sanctions were reasonable, proportionate, and relevant to the Subject Member's behaviour. She added that the sanctions could include recommendation of one or more of the following; a report outlining the Committee's findings made to the relevant Council, issuing a formal censure, request for a formal apology, removal from any or all Committees, removal from outside appointments, to undertake specified training, for the Council to withdraw facilities from the Subject Member, and that the Subject Member be excluded from Council premises (except for necessary meetings). It was noted that any sanctions should not restrict the Subject Member from undertaking their duties as a Councillor.

Questions and Discussion

- xviii. The Investigator stated that following the findings of the Committee, any recommended sanctions must meet the minimum standards required to maintain public trust in the Council. She added that despite this, she believed that the breaches fell within the scope of an apology to the Complainants concerned, and suggested that the findings of the Committee may render the Subject Member more willing to accept the inappropriate nature of their actions. It was suggested that the Committee should also consider recommending that the Subject Member undertake training on general standards matters, social media, bullying, and harassment, with an emphasis on social media. The Investigator stated that whilst these sanctions could be considered weak, it was evident in caselaw that in the case of offensive comments, the issuing of a public apology had often been the recommended course of action.
- xix. The MO stated that the Independent Person had recommended that the Subject Member offer a clear and unfeigned apology to the Complainants, and that they complete training on bullying, harassment, and social media.
- xx. It was noted that the Subject Member had not provided any comment on possible sanctions.
- *The Committee retired to consider sanctions.*
- xxi. The Chairman stated that having found multiple breaches, the Committee had considered all options and took account of mitigating and aggravating factors. He added that in terms of aggravating factors, the conduct was protracted and repeated, whilst being targeted towards a single individual with misogynistic overtones, alongside a comment on beheading which was completely inappropriate. It was noted that the impact of this conduct on others was also considered, and it was suggested that it had the potential to negatively impact upon individuals on the Town Council and in the Community, including those who may be vulnerable, as well as the Subject Member's political party and local democracy. On mitigating factors, it was noted that the Subject Member had suggested that he would offer an apology to the second complainant, however this mitigation was considered to be minimal, as it was a qualified offer.
- xxii. The Chairman stated that the Committee would recommend the following sanctions to Sheringham TC; a report of the Committee's findings be shared

with Sheringham TC, a formal censure outlining disapproval of the Subject Member's conduct, a personal apology be made by the Subject Member to both Complainants at the next Sheringham TC Full Council meeting, removal of appointments to committees until training is completed on standards, code of conduct, bullying, harassment, social media, equality and diversity, within six months of the date of the hearing. It was noted that the training would need to be approved by Sheringham TC, and only considered to be complete once the Town Council were satisfied and had provided confirmation of this to the Subject Member. The Chairman stated that it was also recommended that Sheringham TC adopt the Debate Not Hate campaign and toolkit from the LGA.

RESOLVED

To recommend the following to Sheringham Town Council:

- 1. A report of the Committee's findings be shared with Sheringham TC.**
- 2. A formal censure outlining disapproval of the Subject Member's conduct.**
- 3. That a personal apology be made by the Subject Member to both Complainants at the next Sheringham TC Full Council meeting,**
- 4. Removal of Subject Member's appointments to committees until training is completed on standards, code of conduct, bullying, harassment, social media, equality and diversity, within six months of the date of the hearing.**
- 5. That Sheringham TC adopt the Debate Not Hate campaign and toolkit from the LGA.**

The meeting ended at 2.30 pm.

Chairman