

<b>Code of Conduct Complaint against Cllr Bacon of Catfield Parish Council</b>	
<b>Executive Summary</b>	This report summarises the issues relating to a Member Code of Conduct Complaint, referred for determination by a Hearing of the Standards Committee to take place on 23 June 2023
<b>Options considered</b>	The Standards Committee, on having heard the evidence, may find <ul style="list-style-type: none"> <li>(1) No breach of the Code of Conduct</li> <li>(2) A breach or breaches of the Code of Conduct</li> </ul> <p>And, where a breach is found:</p> <ul style="list-style-type: none"> <li>(3) May recommend to the relevant parish Council that one or more sanctions be imposed</li> <li>(4) May choose not to recommend any sanction</li> </ul>
	The Code of Conduct procedure is set out in the Localism Act 2011 and the North Norfolk District Council Constitution. The Council's Independent Person has been consulted.
<b>Recommendations</b>	That the Standards Committee consider the documents and evidence at the hearing and make such decision as set out in the available options, or as provided at the hearing.
<b>Reasons for recommendations</b>	The Localism Act requires that Standards matters relating to town and parish Councils are considered by the principal Council. The Standards Committee can only make a decision following their consideration of the evidence.
<b>Background papers</b>	Exempt papers

<b>Wards affected</b>	Stalham
<b>Cabinet member(s)</b>	Cllr Tim Adams
<b>Contact Officer</b>	Cara Jordan, Monitoring Officer <a href="mailto:cara.jordan@north-norfolk.gov.uk">cara.jordan@north-norfolk.gov.uk</a> 01263 516373

<b>Links to key documents:</b>	
Corporate Plan:	Statutory obligation to deal with issues relating to Member Conduct.
Medium Term Financial Strategy (MTFS)	No specific financial issues - Statutory obligation to deal with issues relating to Member Conduct.

Council Policies & Strategies	Statutory obligation to deal with issues relating to Member Conduct. The Constitution sets out arrangements for dealing with allegations of a breach of the Code of Conduct
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Corporate Governance:	
Is this a key decision	No
Has the public interest test been applied	<p>This report and appendices are to be treated as exempt for the following reason:</p> <p>Information in this report and appendices involves the likely disclosure of exempt information as defined in paragraphs 1 and 2, Part 1 of schedule 12A (as amended) to the Local Government Act 1972.</p> <p>These paragraphs relate to:</p> <ol style="list-style-type: none"> <li>1. information relating to an individual;</li> <li>2. information which is likely to reveal the identity of an individual; and</li> </ol> <p>The public interest in maintaining the exemption outweighs the public interest in disclosure for the following reasons:</p> <p>Paragraphs 1 &amp; 2: The documents contain the personal data of persons directly and indirectly connected to alleged misconduct and presently it is considered that data protection rights outweigh the public interest in disclosure.</p>
Details of any previous decision(s) on this matter	None

## 1. Purpose of the report

This report summarises the issues relating to a Member Code of Conduct Complaint. It has been referred for determination by a Hearing of the Standards Committee to take place on 23 June 2023.

- 1.1 At the Standards Committee hearing of 23 June 2023, the Committee will consider any preliminary matter, including whether the matter should be heard in public or private session. Thereafter, the Committee will consider the appendices to this report, and any other information provided at the hearing, to consider the complaint and
- (i) Make findings on relevant agreed and disputed facts
  - (ii) Determine, whether the Catfield Code of Conduct was breached by the councillor subject of the allegations (“the Subject Member”)
  - (iii) Where a breach of the Code of Conduct is determined, consider whether any sanction should be imposed, and if so, make such recommendations to the Catfield Parish Council as appropriate.

## **2. Introduction & Background**

### **The Complaint**

- 2.1 The Monitoring Officer received a Code of Conduct complaint against Councillor Keith Bacon (“the Subject Member”) of Catfield Parish Council. The complaint was made by [REDACTED] [REDACTED] seemingly on behalf of two parishioners. The complaint, following initial assessment and investigation, have been referred for consideration and determination by the Standards Committee.
- 2.2 The complaint details two allegations relating to the conduct of the Subject Member in his capacity as a Catfield Parish Councillor. The allegations relate to:
- (i) an alleged disrespectful comment made to a parishioner immediately following the Parish Council meeting of 7 July 2021, and
  - (ii) generally treating others with disrespect in respect of persons attending the Parish Council meeting on 7 July 2021.
- 2.2 During the initial assessment of the complaint, it was identified that this matter may be appropriately dealt with by way of ‘some other action’ as permitted under the Council’s procedures. The Subject Member was contacted and informed that it was considered that this matter may be appropriately concluded were he to make an apology in writing. The Subject Member disagreed with the information shared with him and declined to make an apology.
- 2.3 An Assessment Notice was completed with a recommendation that the matter be referred for investigation.
- 2.4 An investigation was conducted and is included in the appendix to this report. The conclusion finds a breach of the matter at 2.2(i) above, but no breach on the matter at 2.2(ii) above. The Independent Person has also provided his views on the matter, also appended to this report.

## **3. Preliminary Issues**

- 3.1 There may be preliminary issues to determine prior to proceeding to the full hearing. One such matter to be considered is as to whether the hearing is held in public or private session.

### **Public or private session**

- 3.2 As a preliminary issue, the Committee will need to determine whether the hearing is to be held in public, or whether it should be in private session, with the press and public excluded.
- 3.3 There is a presumption and starting point that a hearing under this procedure is subject to the ordinary rules of committee meetings and should be held in public. This, however

is subject to exceptions where it is considered that confidential or exempt information is likely to be disclosed.

- 3.4 The Committee, in reaching its determination as to whether to hear the matter in public or private session, will take into account any representations from the Investigating Officer; Subject Member, Independent Person, and any other person as the Committee considers may assist them in this matter.

#### 4. **Summary of Complaints**

One complaint form was received, but it details two matters.

##### **Allegation 1**

##### **Disrespectful comment made to a parishioner immediately following the Parish Council meeting of 7 July 2021**

- 4.1 The details of this complaint are set out in the investigation report. The allegation is that, following a parish council meeting of 7 July 2021, the Subject Member was approached by a person. It is alleged that he said to this individual, "Keep your \*\*\*\*\* mother under control".
- 4.2 The Code of Conduct of Catfield Parish Council required that a Member shall behave in such a way that a reasonable person would regard as respectful.
- 4.3 Various persons participated in the investigation, including the Subject Member, who provides his views as detailed on pages 8 and 9 of the investigation report (and appendices to that report). Included in his comments, he raises that the conversation in issue occurred after the parish council meeting.
- 4.4 To breach a Member Code of Conduct, a person must be a councillor and acting in their capacity as a councillor. The investigation report considers the issue of 'capacity' at page 14-16 of the report and the investigator concludes, on page 16, that she is of the view that the Subject Member was acting in his official capacity as a councillor.
- 4.5 A draft investigation report was shared with the complainant and the Subject Member who had the opportunity to make any relevant comment before the issue of the final report.
- 4.6 The investigating officer concludes with regard to **allegation 1** (at paragraph 7, on page 20 of her report) that the Subject Member **breached** the Catfield Parish Council Code of Conduct.

##### **Allegation 2**

##### **Generally treating others with disrespect in during the Parish Council meeting on 7 July 2021.**

- 4.7 This relates to the parish council meeting of 7 July 2021. The allegation is that the Subject Member was verbally abusive, especially to women, during that meeting. As well as speaking to persons present, and the Subject Member, the investigating officer read the minutes of and listened to the recording of that meeting, but did not find that these allegations were made out.

- 4.8 The investigating officer concludes, with regard to **allegation 2** (at paragraph 7, on page 20 of her report) that the Subject Member **did not breach** the Catfield Parish Council Code of Conduct.

## **5. The role of the Committee**

- 5.1 The Committee is to consider the complaint, taking into account the written evidence before them, and that given by the Investigating Officer and the Subject Member at the hearing. It will also consider any views of the Independent Person.
- 5.2 On having heard from the Investigating Officer and the Subject Member, including any witnesses they may present, the Committee will need to make findings of fact in regard to the conduct complained of and whether or not they consider that the Subject Member has breached the Code of Conduct.
- 5.3 If the Committee finds that there is a breach, it will then consider whether or not it considers any sanction is appropriate. Before doing so it should take into account any representations of the Investigating Officer, the Independent Person and the Subject Member. Where a sanction is considered appropriate, a recommendation as to sanction will need to be made to the Catfield Parish Council.
- 5.4 Any sanction recommended must be reasonable and proportionate. It should be relevant to the Subject Member's behavior. Sanctions which may be considered include:

Recommendation to the Catfield Parish Council of one or more of the following

- (i) A report of the Committee's findings made to the relevant parish council
- (ii) Issue of a formal censure
- (iii) That the Subject Member makes an apology
- (iv) Removal from any or all committees (where sits) of the parish council
- (v) Removal from outside appointments (where held) to which he is appointed by the parish council
- (vi) That the Subject Member undertakes specified training
- (vii) That the parish council withdraws facilities provided to the Subject Member for a limited time
- (viii) That the Subject member be excluded from the parish Council's offices other than when attending formal meetings

With regard to (vii) and (viii) above, any such sanction must not unduly restrict the Member's ability to perform his duties as an elected member.

## **6. Financial and Resource Implications**

None, save that North Norfolk District Council is responsible for considering a Code of Conduct complaint relating to a town or parish councillor and bears the cost of so doing.

## **7. Legal Implications**

The District Council has a duty under s.27 Localism Act 2011 to promote and maintain high standards of conduct by Members.

## **8. Risks**

None. Statutory responsibility to promote high standards and to consider complaints.

**9. Net Zero Target**

Not applicable

**10. Equality, Diversity & Inclusion**

The Council has a responsibility to consider complaints. The Code of Conduct of each Council should be based on the Nolan principals and the Standards regime looks to promote high standards. Equality training may be considered as a possible recommended sanction in appropriate cases.

**11. Community Safety issues**

None.

**12. Conclusion and Recommendations**

**That the Committee considers the written and oral evidence at the Standards Committee Hearing and does**

- (i) Make findings on relevant agreed and disputed facts**
- (ii) Determine, whether the Catfield Code of Conduct was breached by the councillor subject of the allegations (“the Subject Member”)**
- (iii) Where there is a finding of breach of the Code of Conduct, consider whether any sanction should be imposed, and if so, make such recommendations to the Catfield Parish Council as appropriate**