

| Code of Conduct Complaint against Cllr Rockett of Fakenham Town Council | |
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| Executive Summary | 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 19 December 2024 |
| Options considered | The Standards Committee, on having heard the evidence, may find <ul style="list-style-type: none"> (1) No breach of the Code of Conduct (2) A breach or breaches of the Code of Conduct <p>And, where a breach is found:</p> <ul style="list-style-type: none"> (3) May recommend to the relevant town Council that one or more sanctions be imposed (4) May choose not to recommend any sanction |
| | 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. |
| Recommendations | 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. |
| Reasons for recommendations | The Localism Act 2011 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 its consideration of the evidence. |
| Background papers | Exempt papers |

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| Wards affected | Fakenham (Lancaster wards) |
| Cabinet member(s) | Cllr Tim Adams |
| Contact Officer | Cara Jordan, Monitoring Officer cara.jordan@north-norfolk.gov.uk 01263 516373 |

Links to key documents:

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| Corporate Plan: | <p>A Strong, Responsible and Accountable Council – Effective and efficient delivery</p> <p>There is a statutory obligation to deal with issues relating to Member Conduct.</p> |
| 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 under the Localism Act 2011. 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>The appendix to this report, namely the investigation report and its appendices, are to be treated as exempt for the following reason:</p> <p>Information in this appendix 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"> 1. information relating to an individual; 2. information which is likely to reveal the identity of an individual; and <p>The public interest in maintaining the exemption outweighs the public interest in disclosure for the following reasons:</p> <p>Paragraphs 1 & 2: The documents contain the personal data of person(s) directly and indirectly connected to alleged misconduct and presently it is considered that data protection rights outweigh the public interest in disclosure.</p> <p>The Committee will consider representations at the hearing as to whether this information should remain exempt or public.</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 19 December 2024.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member of the authority (i.e. a councillor or a co-opted member) has failed to comply with that Council’s Code of Conduct, can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided to investigate, and whose views can be sought by the Council at any other stage, or by a Member against whom an allegation has been made.

- 1.1 At the Standards Committee hearing of 19 December 2024, the Committee will consider any preliminary matter, including whether the appendix should be public or exempt, and whether the matter should be heard in public or private session. Thereafter, the Committee will consider the appendix 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 Fakenham Town Council 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 Fakenham Town Council as appropriate.

2. Introduction & Background

The Complaint

- 2.1 The Monitoring Officer received a Code of Conduct complaint against the Subject Member, of Fakenham Town Council. The complaint was made by another councillor of that town council. The complaint, following initial assessment and investigation, has been referred for consideration and determination by the Standards Committee.
- 2.2 The complaint details an incident which, it is alleged, amounts to a breach the Code of Conduct by the Subject Member. Following the original complaint, the investigation report also considers two other alleged breaches.
- 2.3 The two allegations relate to the Subject Member:
 - (i) Disrespectful, bullying or abusive behaviour on 22 March 2024
 - (ii) Sharing confidential information, namely the confidential complaint, with members of the Fakenham Town Council.

- 2.4 An Assessment Notice was completed. It detailed that the matter may be able to be resolved if the Subject Member provides an unfettered written apology to the Complainant, which shall be first lodged and approved as sufficient by the Monitoring Officer, within 21 days. In the absence of such apology, the Assessment Notice detailed that the matter be referred for investigation. The Subject Member wrote to say that there would be no apology provided.
- 2.5 An investigation was conducted and is included in the appendix to this report. The report writer considers that there has been a breach of the Code of Conduct and makes recommendations as to suitable sanctions. The decision as to whether there has been a breach and if so, which sanction or sanctions are appropriate will be for the Standards Committee to decide having considered all relevant information at the hearing.
- 2.6 The Independent Person has also provided his views on the matter, and this is 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 and further consideration 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. Following the original complaint, the investigation report also considers one other alleged breach. The two allegations are detailed at 2.3 above.

- 4.1 The Code of Conduct of Fakenham Town Council is attached in the appendix and requires that Members act respectfully, and do not behave in a bullying or intimidatory manner. Further that information is not disclosed which is confidential.

- 4.2 To breach a Member Code of Conduct, a person must be a councillor and acting in their capacity as a councillor. Elected Members have an enhanced right to freedom of speech, but this is not a limitless freedom. The investigation report considers the issue of 'freedom of speech'.
- 4.3 A draft investigation report was shared with the complainant and the Subject Member who were provided with the opportunity to make any relevant comment before the issue of the final report.
- 4.4 The investigating officer considers that there has been a breach of the 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 Fakenham Town Council.
- 5.4 If a breach is found, and if a sanction is considered appropriate, any sanction recommended must be reasonable and proportionate. It should be relevant to the Subject Member's behaviour. Sanctions which may be considered include:

Recommendation to the Fakenham Town Council of one or more of the following

- (i) A report of the Committee's findings made to the relevant town 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 town council
- (v) Removal from outside appointments (where held) to which he is appointed by the town council
- (vi) That the Subject Member undertakes specified training
- (vii) That the town council withdraws facilities provided to the Subject Member for a limited time
- (viii) That the Subject member be excluded from the town 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 currently 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 Fakenham Town Council Code of Conduct was breached by the councillor subject of the allegations (“the Subject Member”)**
- (iii) Where there is a finding of breach or breaches of the Code of Conduct, consider whether any sanction should be imposed, and if so, make such recommendations to the Fakenham Town Council as appropriate.**