

Code of Conduct Complaint against Cllr Shepherd of Sheringham Town Council	
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 30 June 2023
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 parish 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 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.
Background papers	Exempt papers

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

Links to key documents:	
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"> 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 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 30 June 2023.

- 1.1 At the Standards Committee hearing of 30 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 Sheringham 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 Sheringham Town Council as appropriate.

2. Introduction & Background

The Complaint

- 2.1 The Monitoring Officer received a Code of Conduct complaint against Councillor Richard Shepherd (“the Subject Member”) of Sheringham Town Council. The complaint was made by two complainants, [REDACTED] and Liz Withington. The complaint, following initial assessment and investigation, has been referred for consideration and determination by the Standards Committee.
- 2.2 The complaint details 6 incidents which, it is alleged, amount to a breach the Code of Conduct by the Subject Member.
- 2.3 The 6 alleged incidents relate to the conduct of the Subject Member in his capacity as a Sheringham Town Councillor. The allegations relate to the Subject Member:
- (i) Making a social media post criticising a local support group (Hosting Ukrainian Group Support) and Cllr Withington
 - (ii) Making Facebook post with an image of Baconsthorpe Castle and a comment “Photo of the Bloody Tower where Libs (one in particular!) may be beheaded...”
 - (iii) Making a Facebook post about someone throwing weed killer over his lawn.
 - (iv) An incident relating to a carnival caravan* [*Considered outside the scope of the Code of Conduct]
 - (v) Making a social media post about parking/double yellow lines with comments relating to Cllr Withington
 - (vi) Encouraging a member of the public to make a Code of Conduct complaint/ encourage police involvement so as to endeavour to remove Cllr Withington as a councillor.
- 2.4 An Assessment Notice was completed with a recommendation that the matter be referred for investigation.
- 2.5 An investigation was conducted and is included in the appendix to this report. It was considered that the allegations at 2.3(iv) above falls outside the ambit of the Code of Conduct and so does not fall to the Standards Committee to consider. The report finds that with regard to allegations set out at 2.3 (i)-(iii), and (v)-(vi), that there has been a breach of the Code of Conduct based on the totality of the behaviour, and comments in particular on 2.3 (ii) and (vi) and possible appropriate sanctions.
- 2.6 The Independent Person has also provided his views on the matter, also appended to this report. He comments on each incident separately and considers there to have been breaches, detailing the lack of respect, the bringing of the Sheringham Town Council into disrepute, and the danger that the allegations may border criminal conduct. He comments on his view as to possible appropriate sanctions.

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 6 incidents, one of which is considered outside the scope of the Code of Conduct.

- 4.1 The Code of Conduct of Sheringham Town Council requires that Members treat others with respect and do not bully or harass any person. Further that they do not bring their council into disrepute.
- 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 complainants 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 with regard to allegations set out at 2.3 (i)-(iii), and (v)-(vi), that there has been a breach of the Code of Conduct. The Independent Person also considers that there has been a breach of the Code of Conduct. Both comment on possible appropriate sanctions for the Committee's consideration.

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 Sheringham Town 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 Sheringham Town 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 Sheringham 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 Sheringham Town Council as appropriate**