

HEARING PANEL

Minutes of the Hearing Panel held on Monday 28 April 2014, at the Town Hall, Royal Leamington Spa at 6pm.

PANEL MEMBERS: Warwick District Councillors Mrs Syson and Williams; Parish and Town Council Representative, Councillor Smart.

ALSO PRESENT: Amy Carnall (Committee Services Officer), Mr Meacham (Independent Representative) and Jane Pollard (Council's Solicitor).

1. APPOINTMENT OF CHAIR

RESOLVED that Councillor Williams be appointed as Chair for the hearing.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CODE OF CONDUCT COMPLAINT – COUNCILLOR MRS MOBBS (WESTON-UNDER-WETHERLEY PARISH COUNCIL)

The Panel received a report from the Deputy Chief Executive and Monitoring Officer, Mr Jones, advising them as to the background to complaints received.

The report asked the Panel to consider the outcome of the Code of Conduct investigations and to reach a decision on whether that had been a breach, or breaches, of the Code of Conduct by Councillor Mrs Mobbs.

The Chair introduced himself, other members of the Panel and officers, and asked the other parties to introduce themselves.

Mr Oliver attended as the Investigating Officer and author of the report dated 11 December 2013. Alongside him was the Council's Deputy Chief Executive and Monitoring Officer, Mr Jones.

The Chair explained the procedure that the hearing would follow and asked for advice from the Council's Solicitor regarding a letter from Councillors Coles and Mrs Mobbs. The letter had been hand delivered to all panel Members the previous evening and explained that neither Councillor felt they had been bound by the Code of Conduct. In addition, neither Councillor felt that all correspondence had been made available to the panel, the Investigating Officer's report was biased, they had not been allowed access to the Independent Person and they challenged the process and procedures followed.

With regard to the Code of Conduct issues Mrs Pollard advised that it had been outlined in the report which incidents had taken place under the Parish Council's previous Code of Conduct and which fell under the current

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code. Members were reminded that by accepting office, it was felt that Members were also agreeing to be bound by that Code of Conduct.

In response to the '26 pieces of correspondence' referred to in the letter, any such items would be made available upon request.

Although the Panel was aware that a hearing relating to Councillor Coles had taken place earlier in the day, the Panel did not know the outcome and did not wish to know of any decisions that may have been reached as they wished to approach the hearing with an open mind.

The Monitoring Officer advised the Panel that the Independent Person, Mr Tompkinson had made an approach to Councillor Mrs Mobbs but there had been no attempt to take the Council up on this offer.

Having read the contents of the letter, and after taking legal advice on the issues raised in the letter, the Panel decided to proceed in the absence of Councillor Mrs Mobbs.

Mr Jones outlined the report and explained that following the receipt of complaints, and after consultation with the Independent Person for the Council, Mr Meacham, he had agreed that the matters should be referred for investigation. At this stage, Mr Jones appointed Mr Oliver, Senior Solicitor for Warwickshire County Council, to investigate the allegations concerning Councillor Coles.

Mr Jones advised that he was entirely comfortable that Councillor Mrs Mobbs had had every opportunity to engage throughout the process.

On receipt of Mr Oliver's investigative reports, Mr Jones re-consulted with the Independent Person and concluded that the matters should go forward to a Hearing Panel.

The Chair invited the Investigating Officer, Mr Oliver, to outline his reports.

Mr Oliver delivered his report and advised that there had been three complaints made against Councillor Mobbs. These included her not acting in a respectful manner towards the clerk Mrs Norman, acting in an intimidatory manner towards Mr Haine and not being respectful towards Mr Evans, Mrs Norman and other individuals on an on line forum.

Mr Oliver advised that his report included statements from the interviewees but no written documents or agreement to attend an interview had been forthcoming from Councillor Mrs Mobbs.

Mr Oliver gave some background of the membership of Weston under Wetherley Parish Council in previous years and up to the present time. He also outlined which incidents fell under the existing Code of Conduct and explained when no effective code had been in force.

The Chairman, Councillor Williams, requested advice on the issue raised by Councillor Mrs Mobbs in her letter which questioned the independence of the Investigating Officer. In response, the Monitoring Officer explained that the Chief Executive had commissioned a review of the case by the

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Legal Services Manager. This had concluded that Mr Oliver was managing the case in a reasonable manner.

Mr Oliver then answered questions from the Panel including the definition of bullying behavior, the correct process for dealing with amendments to minutes and the posting of messages on a public website.

Mr Meacham addressed the Panel and stated that he supported the Investigating Officers report and summation of views, which he felt were very fair.

The Chair asked all parties other than the Panel, the Council's Solicitor and the Committee Services Officer to leave the room at 6.52 pm, to enable the Panel to deliberate and reach its decision as to whether they felt there had been a breach of the code.

All parties were invited back in at 7.24pm.

The Panel announced their decision and after hearing from the Investigating Officer the Panel accepted the facts and reasoning set out in the report. The Panel's conclusions in respect of those matters were set out in the following paragraphs.

The Panel had considered the three complaints before them which related to similar facts and agreed that all three should be considered together.

The Panel agreed that any conduct of the members of the parish council could not be considered prior to the adoption of the Code of Conduct on 3 October 2012. Therefore, any incidents relating to Councillor Mrs Mobbs in August 2012 could not be considered because there was no effective code in force to be breached.

With regard to the issues relating to the running of the Parish Council, including notice of meetings, agendas and minutes, the Panel agreed that Councillor Mrs Mobbs' behaviour, in person and in writing, was discourteous and showed a failure to behave towards Mrs Norman in such a way that a reasonable person would regard as respectful.

The Panel considered the postings made on the CPALC website in January 2013, under the username 'Severn45' and agreed that Councillor Mrs Mobbs' profile confirmed that this was her username. The Panel were mindful that although some of the 'threads' of conversation in the blog had not been initiated by Councillor Mrs Mobbs, the titles and topics of conversation had been about the workings of the Parish Council and Councillor Mrs Mobbs had given the impression that she was acting on their behalf.

The Panel agreed that many of the comments posted on the CPALC website by Councillor Mrs Mobbs were discourteous, incorrect and disrespectful towards Mrs Norman.

In addition, the Panel considered that the comments made on the website by Councillor Mrs Mobbs towards Councillor Roberts and Mr Evans were

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disparaging and that a reasonable person would regard this as behaviour which was not respectful.

In response to the complaint that Councillor Mrs Mobbs had tried to bully and intimidate Mrs Norman, the Panel were satisfied that there was a pattern of behaviour displayed by Councillor Mrs Mobbs towards Mrs Norman, which a reasonable person would regard as bullying and intimidatory. The Panel considered this behaviour to be of serious concern.

The Panel therefore,

Resolved, that Councillor Mrs Mobbs breached the Parish Council's Code of Conduct because:

- (a) she did not behave towards Mrs Norman in such a way that a reasonable person would regard as respectful; and
- (b) she did not behave towards Councillor Roberts and Mr Evans in such a way that a reasonable person would regard as respectful; and
- (c) she acted in a way that a reasonable person would regard as bullying and intimidatory towards Mrs Norman.

The Chair then asked, prior to agreeing any sanctions, that the Investigating Officer sum up and provide his opinion on possible sanctions. He felt that publication of the findings and an apology to Mrs Norman should be included.

The Panel had concerns that previous requests for apologies had been avoided and discussed how to strengthen this request. Members also discussed the option of suggesting a review of the Parish Council's Social Media policy.

The Chair asked all parties other than the Panel, the Council's Solicitor and the Committee Services Officer to leave the room at 7.36pm, to enable the Panel to deliberate and reach its decision regarding sanctions.

After considering representations on the sanctions the Panel,

Resolved that

- (1) the Panel will publish its findings in local media about the conduct of Councillor Mrs Mobbs' towards Mrs Norman, Councillor Roberts and Mr Evans;
- (2) the Panel will report their findings to Weston under Wetherley Parish Council; and
- (3) the Panel recommends to Weston under Wetherley Parish Council that Councillor Mrs

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Mobbs should be censured for her behaviour towards Mrs Norman, Councillor Roberts and Mr Evans unless she apologises for her behaviour to said individuals in a public council meeting on or before 23 June 2014; and

- (4) the Panel's report will recommend that Weston under Wetherley Parish Council review its Code of Conduct with regard to the acceptable use of Social Media.

All parties were invited back in to the room and advised of the Panel's decision

(The meeting finished at 7.43 pm)