

HEARING PANEL

Minutes of the Hearing Panel held on Monday 28 April 2014, at the Town Hall, Royal Leamington Spa at 4pm.

PANEL MEMBERS: Warwick District Councillors Pratt and Wilkinson; Parish and Town Council Representative, Councillor Cooke.

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

1. APPOINTMENT OF CHAIR

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

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CODE OF CONDUCT COMPLAINT – COUNCILLOR COLES (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 Coles.

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 30 January 2014. 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 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.

Mrs Pollard advised the panel that Councillor Pratt was able to be a member of the Panel, as long as he approached the matter with an open mind and listened to all representations made. The make up of the Standards Committee meant that any hearing panels would be made of fellow

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councillors, who would be asked to consider the facts and judge on the findings.

With regard to the Code of Conduct issues, it had been outlined in the report which incidents had taken place under the previous Code of Conduct and which fell under the current 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.

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 the Panel that Councillor Coles had been contacted on a number of separate occasions and had been invited to get involved with the process. However, every invitation had been refused.

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. Mr Jones reminded the Panel that Councillor Coles had been notified of the hearing date and invited to attend.

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

Mr Oliver delivered his report and answered questions from the Panel about each of the individual incidents. Mr Oliver explained that despite asking Councillor Coles for his input, he had not offered any information or agreement to meet. Mr Oliver advised that he had had one telephone call with Mr Coles who was dissatisfied with the process.

Mr Oliver concluded that, in his opinion, Councillor Coles had failed to behave in a manner that was respectful towards Mrs Norman.

The Panel felt that the letter detailed at Appendix 6 to the report was littered with disrespectful comments and agreed with the Investigating Officers findings in section 7.12 of the report.

The Panel agreed that it was difficult to consider the opposite side of the complaint without any response from Councillor Coles and his failure to attend the hearing, removed the opportunity for them to question him.

The Chair asked all parties other than the Panel, the Council's Solicitor and the Committee Services Officer to leave the room at 4.45pm, 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 5.10pm, at which time the Solicitor outlined the legal advice she had given to the Panel prior to it reaching a

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decision. The panel had been advised that they had to make a decision on the information before them and based on the balance of probability. With regard to the reference of 'bullying' this was a description used within the Weston-under-Wetherley Code of Conduct and could therefore be considered. There was no challenge to the facts and the Panel had agreed to consider the findings of fact and the breach of the code together.

The Panel announced their decision and advised that they accepted the facts and reasoning set out in sections 6 and 7 of the investigating officer's report and their conclusions on the incidents were summarised below.

The first incident, outlined in paragraph 6.3, related to a meeting that took place in August 2012. The Panel agreed that as there was no Code of Conduct in place at the time of the incident, Councillor Coles could not have failed to comply with it.

The second incident, outlined in paragraph 6.4, related to the clarification of minutes. The Panel agreed that Councillor Coles, by failing to respond to the request for clarification and by acting in the way he did in seeking to get the draft minutes changed, failed to behave towards Mrs Norman in a way that a reasonable person would regard as respectful.

The third incident related to the series of emails, outlined in paragraph 6.6 of the report, the Panel agreed that on their own, the emails did not contain anything offensive and did not amount to a failure to behave towards Mrs Norman in a way that a reasonable person would regard as respectful.

The fourth incident related to the request for items to be added to the agenda for 27 February 2013 meeting and the subsequent conduct of Councillor Cole. The Panel was mindful that there had been confusion regarding the timings for submission of items and the publication of the agenda due to Councillor Roberts being busy or away. The Panel agreed that, had the clerk failed to comply with the Local Government Act or the Council's Standing Orders, other legal avenues would have been available to Councillor Coles to challenge such failures.

The Panel considered the events that took place on 27 February 2013 which included the contents of the email sent shortly before the start of the Council meeting and the behaviour of Councillor Coles toward Mrs Norman at the meeting. The Panel concluded that the remarks made by Councillor Cole in the email were both disparaging of Mrs Norman and an attempt by Councillor Cole to undermine Mrs Norman and her role as the proper officer of the Council. The Panel agreed that Councillor Coles' behaviour at the meeting had been intimidatory and that he had failed to behave in a way that a reasonable person would regard as respectful.

The Panel found the events of 27 February 2013 particularly disturbing and that the behaviour of Councillor Cole taken as a whole showed not only a lack of respect for Mrs Norman but was also bullying and intimidatory. The Panel, therefore, found that Councillor Coles was in breach of his obligations as a member under the Parish Councils code of conduct.

Resolved, that taken as a whole, Councillor Coles' behaviour showed a lack of respect to Mrs Maria

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Norman and is also bullying and intimidatory and he was therefore in breach of the parish councils code of conduct.

The Chair then asked, prior to agreeing any sanctions, that the Investigating Officer sum up and provide his opinion on possible sanctions. Mr Oliver stated that it had been difficult to conclude on sanctions when he had not had the opportunity to interview Councillor Coles.

The Chair asked all parties other than the Panel, the Council's Solicitor and the Committee Services Officer to leave the room at 5.15pm, to enable the Panel to deliberate and reach its decision regarding sanctions.

After considering representations on the sanctions the Panel advised that it considered the bullying and intimidation of officers to be particularly serious and therefore,

Resolved that

- (1) the findings of the Panel in respect of the member's conduct will be published in local media and the Panel also recommends that this includes the local Parish Newsletter; and
- (2) a formal report will be made to the Parish Council recommending that Councillor Coles be censured for his behaviour towards the Parish Clerk, Mrs Maria Norman, unless Councillor Coles apologises to Mrs Norman for his behaviour at a public council meeting, within eight weeks from 28 April 2014.

All parties were invited back in to the room and advised of the Panel's decision and advised that Councillor Coles would be supplied with a summary of the decision shortly, with a detailed decision and minutes to be published in due course.

(The meeting finished at 5.30 pm)