

NOTES FOR COUNCIL MEETING 21ST AUGUST 2013

I am concerned that, whatever the merits or not of the allegations against Cllr Dhillon, there is a very serious issue here to do with not following the Warwick District Council Constitution, and not applying the Standards Committee published procedures.

- Has there been a previous occasion when we were told we had to rely on a legal device to side step the WDC Constitution?
- Just because this might be legally possible does not mean it is right or should be an action to follow?
- We run the serious risk of bringing this Council and its institutions into disrespect, and set up a very dangerous precedent?
- What we are being asked to do is unconstitutional.
- Already I am being lobbied and questioned by local residents on this matter.

This Council has established a Standards Committee as required to undertake work on governance of the Council. Changes to the Constitution will only be approved by the Council under ARTICLE 16 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

- Articles of the Constitution cannot be suspended.
- The Constitution can only be changed by the full council. Therefore it is my understanding that *The full Council would have to debate and decide to change the Constitution to remove or abolish the Standards Committee first, since The Standards Committee is an Article of the Constitution.*
- There is no mention of “parent body” in the Constitution.

We must seek to maintain the integrity of the Standards Committee as contained in our Constitution and before looking at this complaint we should be certain that the processes are correct.

There is a very detailed set of procedures to follow in carrying out an investigation into a complaint against a Member. And another set of detailed procedures as to how a hearing should be conducted. These have not been followed which raises many questions:

- Nowhere in the Constitution or The Standards Procedures does it state that Leaders of political parties have any responsibility or role - or training - for determining the seriousness of a complaint or to decide that it should be heard by full Council.
- Why have they been involved in taking the decision to move the procedure to the Council rather than anywhere else? Did they consult their group members?
- If this matter was so urgent, why was not an urgent meeting of the Standards Committee called?
- This Council adopted the procedure and arrangements for dealing with complaints. There was no criteria given for assessing the seriousness of those complaints; presumably this is an outcome of an investigation and/or the hearing panel to determine?
- How have the confidentiality legal issues been addressed?
- This was a matter for the trained Standards Committee members or Hearing Panel to decide.
- Hearings are dealt with by the Committee so why is this so serious that it has to come before Council?

- If we are using full Council to conduct a Hearing, why has the correct procedure not been followed?

I am concerned that a Council of 46 people is the right body to hear a matter such as this and come to a consensus without appropriate training.

What is the legal basis and consequences for individual councillors if we act improperly in conducting a hearing? Have we had legal advice on all this? (Although I am loathe to add to the £600,000 charges we have apparently received so far this year from the County Legal team.)

This Council meeting has now set itself up as a Standards Hearing. I would have expected a much fuller document for a Hearing. Where is the Investigating Officer's Report? I would not expect Greta Needham to now introduce any more evidence than is written in the officer's report.

As to the report:-

- 3.0 Why is Greeta Needham stated as bringing the complaint?
 - 3.4 The Email from Cllr Dhillon does not admit to the words that are alleged.
 - 3.3 The email from Andrew Jones did not request a personal apology. Should the Monitoring Officer have written to Cllr Dhillon if he was also the complainant – should this not have been done by the Deputy Monitoring Officer or Investigating Officer Greta Needham?
- Surely, if this is central, the matter of the exact words has to be investigated and a report compiled.
 - Has Cllr Dhillon had sufficient time for legal representation- the procedure states he MUST be given 14 days after receiving the report which was published on 12th August.
 - Natural Justice requires anyone accused should have due process and time to prepare a defence and take full legal advice?
 - Why didn't Cllr. Dhillon receive notification that a complaint had been lodged against him and under which obligation of the Code of Conduct? Why did Andrew Jones not respond to Cllr. Dhillon's question "is there a complaint against me"?
 - Why wasn't there a meeting held with Cllr. Dhillon to discuss the allegations?
 - Why was Cllr. Dhillon not informed of who the Investigating Officer was and why was he not interviewed by the Investigating Officer and a statement taken?
 - How has Cllr. Dhillon had the opportunity to refute this evidence?
 - Why wasn't he given a copy of the subsequent report - if there is one - by the Investigating Officer and why has he only learned of this complaint when he received the Agenda for this Council Meeting? Why was he not allowed sufficient time to take legal advice and for his legal representative to make representations before we got to this stage?
 - Where are the witness statements supporting 3.4 "matter of public record".
 - Why weren't all the witnesses interviewed and included with the Investigating Officer's Report?
- 3.5 It has not been proven through the correct process that "Cllr. Dhillon's remarks publicly questioned Andrew Jones integrity" because there has been no investigation into the alleged remarks.

There was no member of the public present at the incident, so how was there a possibility of this Council being brought into public disrepute?

Regarding recommended sanctions - one of the sanctions has already been imposed by publishing this report and the findings.

Why was a previous case identifying Cllr. Dhillon published to highlight previous instances. Natural Justice is not in play here.

This Council has now brought the matter into the public domain before it has been deliberated and resolved, and broken strict confidentiality rules necessary to ensure Natural Justice.

Many Members have already received condemnation in emails and phone calls received and on social media sites virtually proclaiming Cllr. Dhillon a victim and a hero and bringing this Council into disrepute through a much wider audience. This is damaging in regard to how the public perceive this Council since they already have increasing loss of confidence and trust issues with regard to the Local Plan and all its potential consequences, St. Mary's Lands, Governance Review of Warwick Gates and the Gateway project.

For this Council to undermine and override the adopted Standards procedure and thereby create a storm of protest is an extremely unwise measure to take. We claim to be efficient, transparent and accountable to the public but if we pursue this course and take on the role of the Standards Committee we are left wide open to the procedures and Constitution being overridden once again because a clear precedent would then be established. The Standards Committee will be effectively replaced because there is no criteria established for dealing with complaints at Committee or Council. We shall have a political debating forum turning itself into a quasi-judicial body operating as a Jury without the benefit of Natural Justice. A criminal has more rights than this.

Finally, please bear in mind that in future ALL Members will be left wide open to the whim of the political Leaders and Officers regarding complaints - which in my opinion is undemocratic and extremely dangerous practice.