

HEARING PANEL

Minutes of the Hearing Panel held on Friday 15 November 2013, at the Town Hall, Royal Leamington Spa at 10.00 am.

PANEL MEMBERS: Councillors Mrs Falp, Pratt and Mrs Syson.

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

Councillor Mrs Falp declared an interest because, along with Councillor Mrs Bromley, she was a member of the Independent Group.

3. CODE OF CONDUCT COMPLAINT 5 AND 5a 2012

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 Bromley.

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 two reports dated 29 August and 16 September 2013. Alongside him was the Council's Deputy Chief Executive and Monitoring Officer, Mr Jones.

Councillor Mrs Bromley attended and was represented by her legal advisor, Mr Hathaway.

The Chair explained the procedure that the hearing would follow and advised that all three complaints would be heard together, as had been agreed at the pre-hearing on 9 October 2013.

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 Mrs Bromley.

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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 explained that his first report, dated 29 August 2013 dealt with two complaints. The first complaint centered around Councillor Mrs Bromley approaching a representative of a contractor who had been carrying out CCTV and lighting works for the Council in St Nicholas Park.

The second complaint concerned Councillor Mrs Bromley's failure to acknowledge receipt and understanding of the new Code of Conduct, despite reminders from Council officers and the Standards Committee.

During his investigation, Mr Oliver interviewed Council officers and Councillor Mrs Bromley and considered other documentation relevant to the complaint, including an email from the contractor's representative, Mr Neville.

Two statements had been distributed by Mr Hathaway, prior to the start of the meeting. One of these was relevant to this complaint and was from Mr Kenton, of the Friends of St Nicholas Park and the Neighbourhood Watch Coordinator. Mr Oliver did not feel that this statement was independent and requested that it was not taken into account by the Panel.

Mr Oliver concluded that Councillor Mrs Bromley had failed to adhere to a number of the requirements of the Code of Conduct and these were explained in full in section 1.3 of his first report. The relevant sections included failing work constructively with Council staff; failing to comply with the provisions of the Council's Member/Officer protocol; failing to value and respect Council staff and to engage with them in an appropriate manner; and failing to treat the contractor's representative with respect.

Finally, Mr Oliver felt that by failing to respond to a letter sent on behalf of the Standards Committee, Councillor Mrs Bromley had failed to value and respect her colleagues.

Mr Oliver's second report dated 16 September 2013 was to investigate a complaint submitted by a member of the public, Ms Turpin, following a meeting of the Warwick Community Forum on 4 October 2012.

During the course of the meeting, a grant application had been considered from the Jackie Turpin Amateur Boxing Club and this was presented by Ms Turpin. Ms Turpin alleged that Councillor Mrs Bromley failed to adhere to the provisions of the Code of Conduct relating to objectivity, honesty and accountability in relation to her actions, including the manner in which she questioned the complainant.

During his investigation, Mr Oliver interviewed the complainant, Council officers, the Chairman of the Warwick Community Forum, Police officers who had been in attendance as well as Councillor Mrs Bromley.

HEARING PANEL MINUTES (Continued)

Two statements had been distributed by Mr Hathaway, prior to the start of the meeting. One of these was relevant to this complaint and was from Mr Cowlard of Racing Club Warwick. Mr Oliver did not feel that this statement was independent and requested that it was not taken into account by the Panel.

Mr Oliver concluded that in relation to the questioning of the complainant at the meeting on 4 October 2012, Councillor Mrs Bromley had failed to adhere to the provision of the Code of Conduct which required that a Councillor should always treat people with respect. Mr Oliver also found that other matters referred to, did not constitute a failure to adhere to the provisions of the Code.

The Chair asked Mr Hathaway to address the Panel in response to the alleged breaches.

Mr Hathaway stated that Councillor Mrs Bromley accepted the report and the three alleged breaches of the Code of Conduct.

He advised that with regard to the first complaint, Councillor Mrs Bromley had been acting as a member of the Friends of St Nicholas Park, as their treasurer. At a meeting of the group issues were raised regarding the clarity of CCTV images and she approached Mr Neville as a member of the management committee.

Mr Hathaway made reference to the lack of a statement from Mr Neville and reiterated that Councillor Mrs Bromley had been making enquiries on behalf of a voluntary organisation. He therefore did not feel that there had been any breach of the Code because she was not acting as a District Councillor at the time.

In response to the second complaint, Mr Hathaway stated that the Localism Act did not state that any Member was under any statutory obligation to sign their Council's Code of Conduct. He felt that the Deputy Monitoring Officer, Mr Leach had been over zealous in his attempts to obtain a signed copy from Councillor Mrs Bromley, despite her submitting her pecuniary interests form, duly signed.

Mr Hathaway stated that at no time had Mrs Bromley intended to show disrespect to her fellow Councillors and the Members of Standards Committee. In addition, he felt there had been no breach in failing to understand the Code.

With regard to the third complaint, Mr Hathaway accepted that there had been a presentation from the Boxing Club during an open forum and felt that it was the manner of questioning that was being debated. He advised that Councillor Mrs Bromley was under a duty of care when it came to the application of public monies.

In addition, Mr Hathaway felt that the Chair of the Forum, Councillor Mrs Grainger had not stopped the questioning and there had been nothing to distinguish between Councillor Mrs Bromley's manner to any other person in attendance at the forum. He stated that there had been no lack of respect meant.

HEARING PANEL MINUTES (Continued)

The Investigating Officer and Monitoring Officer asked specific questions of Mr Hathaway and clarified points relating to the complainants position at the Boxing Club. The Panel were advised that Ms Turpin was not in attendance at the hearing and therefore had no right of reply.

The Monitoring Officer advised Members that there was a twelve month time limit on making complaints, unless there were exceptional circumstances, and each had to be judged on its own merits.

The Chair asked all parties other than the Panel, the Council's Solicitor, the Independent Person and the Committee Services Officer to leave the room at 11.40am, to enable the Panel to deliberate and reach its decision as to whether they felt there had been a breach of the code.

RESOLVED that in relation to:

(a) The complaint relating to the works in St Nicholas Park

The material facts relating to this matter are summarised in section 6 of the Investigation Report. The scheme for the installation of CCTV and lighting in St Nicholas Park had been approved by the Council and was being implemented by officers. On 2nd July 2012 during the course of a telephone conversation with Mr Neville a representative of the contractor Councillor Mrs Bromley identified herself as a councillor and also referred to the fact that £98,000 was available for spending on the park and that she and the Friends of St Nicholas Park wanted to see it all spent on CCTV. This telephone conversation and the intention to have further discussion with Mr Neville went further than a simple enquiry about the quality of the images produced by the cameras.

We find that Councillor Mrs Bromley was acting in her capacity as a Councillor from the time she identified herself as a Councillor in the telephone conversation with Mr Neville, who thereafter treated her as such. This is indicated by his invitation to Councillor Bromley to attend the site meeting (although declined by Councillor Bromley) and his initial agreement to make contact following the site meeting.

We do find that by making him aware of her wish for additional cameras and additional spend on the scheme, Councillor Mrs Bromley was seeking to undermine or change the implementation of a council scheme and was

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therefore failing to work constructively with Council staff.

In the absence of any witness statement from Mr Neville, the Panel feels unable to comment on the remaining allegations.

(b) The complaint relating to the acknowledgement of the Code of Conduct

On 2nd July, Graham Leach, the Democratic Services Manager and Deputy Monitoring Officer, sent an email to all Councillors attaching a copy of the newly adopted Code and asking each Councillor to acknowledge that they had received and understood it.

By the beginning of October, he had not received the requested acknowledgement from about half the Councillors, including Councillor Mrs Bromley. He therefore sent a further letter on 2nd October to those councillors asking for the acknowledgement as a matter of urgency.

At a meeting of the Standards Committee on 30th October, the Chairman of that committee asked Mr Leach to inform the Committee of those Councillors who had not acknowledged receipt and understanding of the code. By that time there were only four Councillors in that position, including Councillor Mrs Bromley. The Committee asked Mr Leach to write to those members "expressing the dissatisfaction of the Committee and encouraging them all to respond immediately".

The letter requested by the Committee was sent by Mr Leach on 9th November. Three of the four outstanding acknowledgements were received by Mr Leach in the following weeks. No acknowledgement has been received from Councillor Mrs Bromley. She accepts that she has received the various emails and letters, and has not responded to them.

We find that she was acting as a Councillor when receiving the various communications and considering them and deciding not to respond to them. She was therefore subject to the code at the relevant times.

We find that by failing to respond to various emails and letters from Mr Leach as set out in the Investigating Officer's report, Councillor Mrs

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Bromley was failing to work constructively with Council staff.

Similarly, by failing to respond to the letter sent by Mr Leach on behalf of the Standards Committee, Councillor Mrs Bromley failed to value and respect her colleagues.

(c) The conduct of Councillor Mrs Bromley at the Warwick Community Forum on 4th October 2012

A meeting of the Warwick Community Forum on 4th October 2012 considered a bid for grant funding by the Jackie Turpin Amateur Boxing Club ("the Boxing Club"). The Forum is a public meeting and the complainant Ms Turpin (then Secretary of the Club) was present at the meeting to support the club's application for funding. Councillor Mrs Bromley was present at the meeting and questioned the complainant about the bid.

We find that she was acting as a Councillor when attending the Community Forum and was therefore subject to the code at the relevant times.

We received a number of witness statements relating to the questioning of Ms Turpin by Councillor Mrs Bromley from the Chairman, Councillor Mrs Grainger, Ms Allen (the WDC officer who organises the Community Forum and takes the notes of the meeting), Sergeant Kettle, P.C. McMurray, Mr Kenton and Mr Cowlard. Ms Turpin describes herself as feeling distraught, embarrassed and humiliated by the questioning. Mr Cowlard and Mr Kenton also asked questions of Ms Turpin at the same Forum meeting. Those not engaged in asking questions of Ms Turpin describe the questioning as unsympathetic, more appropriate to a courtroom, aggressive and uncomfortable to listen to.

After carefully considering all the witness statements, the Panel has concluded on balance that Councillor Mrs Bromley failed to treat Ms Turpin with respect by the manner of her questions, not the content of her questions, at the Community Forum and therefore failed to adhere to the requirement of the Code of Conduct that a Councillor should always treat people with respect.

HEARING PANEL MINUTES (Continued)

All parties were invited back in to the room at 1.15pm, at which time the Solicitor outlined the legal advice which she had given to the Panel prior to it reaching a decision. This had included advice on the Localism Act and the requirement for each Council to produce their own Code of Conduct.

The Panel announced their decision, as set out above and stated that the factual matters in the investigation reports were not in dispute.

The Chair then asked, prior to agreeing any sanctions, that the Investigating Officer sum up.

Mr Oliver stated that he felt there had been a common thread running through the complaints, and that was a sense of arrogance. He felt that Councillor Mrs Bromley should be asked to apologise to those individuals she had treated with a lack of respect. He advised that there was no sanction relating to requesting a resignation, however, this may be something that the Councillor may choose to do by her own volition. With regard to future conduct, Mr Oliver felt that an apology should be made to the Full Council.

The Chair then asked Mr Hathaway if he had any comments to make regarding sanctions. He stated that his client respected the findings of the Panel however, he felt it strange that if there had been a breach of the law, or a breach of the Code of Conduct, there must also have been a breach by Council officers of the understanding of the law.

Mr Hathaway accepted that there should be an apology to officers, in a recommended form, but felt that an apology in open Council was harsh under these circumstances.

The Chair asked all parties other than the Panel, the Council's Solicitor, the Independent Person and the Committee Services Officer to leave the room at 1:30pm, to enable the Panel to deliberate and reach its decision regarding sanctions.

After considering representations on the sanctions the Panel did not feel that an apology to Full Council was appropriate, however, the Panel

RESOLVED that Councillor Mrs Bromley should apologise in writing to:

- Ms Turpin, the complainant;
- Mr Leach, Deputy Monitoring Officer;
- Mr Coker, Head of Neighbourhood Services;
- Mr Elliot, Chief Executive of Warwick District Council; and
- Members of Standards Committee, through the Chairman.

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

(The meeting finished at 1:50 pm)