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AUDIT AND GOVERNANCE (HEARING) SUB-COMMITTEE

MINUTES OF MEETING HELD ON WEDNESDAY 7 JULY 2021

Present: Cllrs Matthew Hall, Richard Biggs and Bill Trite

Also present: Mrs E Whatley (Independent Person), Mr R Nichols (Independent Person), Cllr N Ireland (Dorset Council), Cllr C Lugg (Ferndown Town Council), Cllr Hanson Graham (Ferndown Town Council) and Cllr J Baxter (Ferndown Town Council)

Officers present (for all or part of the meeting):

Grace Evans (Head of Legal Services and Deputy Monitoring Officer), Roger Greene (Litigation Lawyer and Investigating Officer) and Susan Dallison (Democratic Services Team Leader)

37. Election of Chairman

It was proposed by Cllr R Biggs seconded by Cllr B Trite

Decision

That Cllr M Hall be elected Chairman.

38. Apologies

There were no apologies for absence.

39. Declarations of Interest

Cllr R Biggs stated that he was a member of the Liberal Democrat Group and that Cllr N Ireland was Leader of that group, however this would have no bearing on his decision making.

Cllr B Trite declared that he was acquainted with Cllr C Lugg as they were both members of the same political group.

Cllr M Hall stated that he was also a member of the Liberal Democrat Group. As Chairman Cllr Hall explained to those present that the Sub-committee meetings were arranged by Democratic Services and members were not aware of the details of the complainant, however the Sub-committee had a set remit and that the members of the Sub-committee would take every piece of information into account including the views of the Independent Person.

40. Hearing Sub-Committee Terms of Reference and Dorset Council Member Complaint Process

The Sub-committee noted the Terms of Reference and the process for complaints.

41. Urgent Items

There were no urgent items of business.

42. Exempt Business

The Chairman proposed that the meeting be held in open business, there were no objections from the attendees present.

43. Code of Conduct Complaint 1

The Investigating Officer, Roger Greene, introduced his report by highlighting the key points within the report.

A Code of Conduct complaint against Cllr N Ireland had been submitted to Dorset Council by Mrs Bray in respect of a Western and Southern Planning Committee meeting held in October 2019.

The facts of the complaint were not disputed by Cllr N Ireland, who accepted that he sent an email to all members of the committee supporting the position of an objector who wanted the Western & Southern Planning Committee to refuse a planning application.

Cllr N Ireland had confirmed to the Investigating Officer that he considered that he could send the email to all members of the committee as he knew that he would not be attending the committee on the day that the planning application was under consideration. However the Investigating Officer, advised the sub-committee that he considered that this course of action was not correct under the Members' Code of Conduct based on the general principles of the Code, including openness, honesty and integrity which apply to all conduct cases. The Investigating Officer had written to Cllr N Ireland during the investigation to clarify this point.

In this case the planning application in question had been approved by the planning committee. Therefore, if the sub-committee found Cllr N Ireland to be in breach of the Code of Conduct the breach was mitigated as it did not make any difference to the application decision.

Mrs Bray, the complainant, considered that it was inappropriate to use social media to try to influence the decision of a planning committee.

The Investigating Officer explained that a member of a planning committee must always be careful not to predetermine or lobby other members of the committee. Dorset councillors were required to comply with the Code of Conduct which included other protocols relating to member conduct. The Investigating Officer read the relevant section of the Protocol for Members and Officers on Planning Procedures highlighting that:

Members must not make up their minds in advance of meetings;

They can hold a strong view but if their mind is not open they must not debate or vote;

Lobbying is part of the process but members must take care to ensure lobbying does not call into question the integrity and fairness of the planning process or an individual councillor;

Members of the planning committee should take care about expressing an opinion which could indicate they had made up their mind. They should instead give procedural advice including contacting the case officer.

In response to the Chairman, Mrs Bray, the complainant, confirmed that she had nothing to add.

Cllr B Trite asked the Investigating Officer if his view that a breach of the code had taken place would be different if Cllr N Ireland had said from the outset that he was predetermined on the application and would not be taking part in the meeting, e.g. if he had clearly divorced himself from the committee from the outset.

In response the Investigating Officer stated that Cllr N Ireland was a member of the planning committee and predetermination meant that he could not take part in the debate or decision. He had looked at the facts and in his view the email sent by Cllr N Ireland was attempting to unfairly influence fellow members of the planning committee and that was likely to be the public perception.

Cllr Biggs made the point that the public expected councillors to be open minded and that he believed the whole of the Code of Conduct applied, including the 7 general principles.

In response to the Chairman, the Independent Person confirmed that she had no questions for the Investigating Officer.

Cllr N Ireland was given the opportunity to address the sub-committee and he highlighted that other councillors sent in statements about planning applications, who didn't attend planning committee meetings and their statement was read out by an officer at the meeting.

Cllr N Ireland also explained that the report did not specify how he had supposedly broken the Code of Conduct and that in all of the steps that he had taken in relation to the matter he had been open and honest. Cllr N Ireland provided some personal history to the matter, explaining that swimming was his sport, that he swam competitively whilst at university and later in life his children joined local swimming clubs and that he also competed in water polo. He knew many people did use the facility, which although was not in his ward was used by his constituents.

Cllr N Ireland clarified that by sending the email he was representing the views of his constituents. If he had attended the meeting, he confirmed that he would have declared predetermination but he was out of the country on the day of the planning committee. He added that the committee had received other lobbying emails and that the Code of Conduct did not prohibit members from lobbying. He explained that he was trying to persuade the committee on behalf of his constituents. Cllr N Ireland stated that he had no regrets over his actions and that he would take the same action again in order to represent his constituents in respect of future planning applications

The Investigating Officer confirmed that he had no questions for Cllr N Ireland.

The Independent Person confirmed that she had no questions for Cllr N Ireland.

Cllr B Trite asked whether Cllr N Ireland disputed any of the social media evidence.

In response Cllr Ireland stated that he did not dispute it, as was a matter public knowledge and record. He believed that his views would be known and that he was being open and honest about his views and his position. He also stated that he was representing his constituents and that being on a planning committee did not stop him from lobbying, it advised against it, but it did not prevent him from doing it.

Cllr R Biggs asked if he had attended Code of Conduct training.

Cllr N Ireland confirmed that it was a requirement for planning committee members to attend training on the Code of Conduct. Cllr N Ireland also stated that he had checked the Code of Conduct before he had sent the email and specifically checked what 'should not' meant. The words meant that you probably shouldn't do it, but it didn't stop you from doing it. Cllr Ireland reiterated that other ward members had their statements read out at planning committees without being present.

Cllr R Biggs highlighted that Cllr N Ireland was not the ward member for the planning application in question and raised the issue of whether it was correct for Cllr N Ireland to believe that he was the ward member because his ward was affected. The Chairman asked if the council had a definition of 'ward councillor' and the Deputy Monitoring Officer agreed to look in the Constitution whilst the meeting continued.

In conclusion the Investigating Officer accepted that he and Cllr N Ireland would not agree on the issue of predetermination. He accepted that there was an element of openness in the actions of Cllr N Ireland but considered, overall that there had been a breach. Based on the facts presented he did not believe that Cllr N Ireland had followed the correct procedures.

In response to the question on the definition of a ward councillor the Deputy Monitoring Officer confirmed that ward members were members representing their wards or wards that were affected and in relation to planning, ward

members who were not members of the planning committee could make representations on applications in their ward.

At 10.22am the members of the sub-committee went into private session to consider the decision.

After deliberations the sub-committee returned to the meeting and the Chairman announced the following decision:

Decision

Having heard all of the views today and having read all of the papers and taken into account the views of the Independent Person, the sub-committee has made a unanimous decision to agree with the recommendations of the Investigating Officer and find that there has been a breach of the code, in particular the principles of public life. Councillors can have opinions and can express views but the way it has been done calls into question the integrity of the councillor, the planning process and the planning committee.

The sub-committee therefore requires an apology from Cllr N Ireland at the next planning committee.

In accordance with our complaints process there is no right of appeal.

End 11.11am

44. **Code of Conduct Complaint 2**

The Chairman introduced members of the sub-committee to those were who present at the meeting to hear the second Code of Conduct hearing on the agenda.

Cllr Bill Trite had made a declaration of interest at the start of the meeting as he was a member of the Conservative Group as was Cllr C Lugg.

With the agreement of those present the Chairman, Cllr Matt Hall, advised that the meeting would be held in open business.

The Investigating Officer, Mr R Greene, presented his report. A Code of Conduct complaint had been received from Cllr Cathy Lugg, Ferndown Town Councillor against Cllr Paul Hanson Graham, Ferndown Town Councillor in respect of bullying, offensive behaviour and failure to show respect.

The Investigating Officer advised the sub-committee that the agenda pack contained a second statement by Cllr C Lugg that had been redacted. The statement was in response to the draft report and referred to matters that had not be raised before. The Investigating Officer did not consider it reasonable to include this information and took the decision to redact the statement. It

was for members of the sub-committee to decide how they wished to deal with this statement.

The Deputy Monitoring Officer had seen the unredacted version and advised the sub-committee that it made reference to the number of complaints, hearsay evidence and further witnesses. She agreed with the Investigating Officer that the redacted statement was sufficient for the hearing to proceed, however copies of the unredacted statement were available for the sub-committee if they wished to see it. The members of the sub-committee all agreed that they were content to continue with the redacted statement.

The Investigating Officer continued his presentation and reported that his finding had been a non-breach of the Code of Conduct. He had received a large amount of documentation from Cllr C Lugg and a copy of the Ferndown Town Council Code of Conduct was included in the agenda bundle. He further advised that this was a long-standing complaint about the same issues which was seeking a remedy that this sub-committee could not provide. The Investigating Officer had found no reference in any of the documentation that the Chairman of a Ferndown Town Council committee had stopped the councillor in question for disorderly conduct or the councillor had been asked to apologise. He referred to the Standing Orders for the Town Council which did not appear to have been implemented in a firm way. The Investigating Officer had listened to a meeting of Ferndown Town Council dated 27 January 2020 and the transcript was included as a supplemental to the bundle.

As part of his investigation the Investigating Officer had received 3 or 4 emails and a statement from Cllr Willis for Cllr C Lugg and a response from Cllr Baxter for Cllr Hanson Graham.

The Investigating Officer had found it difficult to reconcile the alleged behaviours outlined in the documents without hard facts. There was no evidence from the Town Clerk of Cllr C Lugg having left a meeting in an upset state or having refused to attend a meeting.

In response to the Chairman, Cllr C Lugg explained that although the Investigating Officers report referred to 4 or 5 complaints involving the same councillors her unredacted statement clarified that she had only been involved in 1 earlier complaint.

Cllr C Lugg asked the Investigating Officer if he accepted that it was very difficult to prove bullying as very often it was a look or muttering. She noted that all involved in the investigation and sub-committee were male and suggested that the Investigating Officer was looking at it from a male point of view, giving no weight to the view of the female finance officer who had been present at the meeting or Cllr Willis' statement. In response the Investigating Officer stated that his report was based on the documents and the evidence that he had received and he had looked at the matter as objectively as possible.

Cllr C Lugg wished to refer the sub-committee to a word that she had been called by Cllr Hanson Graham, as a member of the public had complained to

the Mayor about the use of the word. The Deputy Monitoring Officer advised the sub-committee that this would be hearsay as it was not known who the member of the public was who heard the word and so it was not possible to verify the use.

In response to the Investigating Officer's report Cllr Hanson Graham stated that having debate and having different views was part of democracy and that he was a robust and straightforward person.

Cllr John Baxter, Ferndown Town Council, confirmed that he had no questions for the Investigating officer.

The Independent Person, Mr Rob Nichols confirmed that he had no questions for the Investigating Officer.

Cllr Bill Trite asked how many councillors had failed to respond to the Investigating Officer as part of the investigation. The Investigating Officer confirmed that he had written to all councillors, apart from those who had given statements, and only 2 out of the 6 had responded.

Cllr R Biggs had no questions for the Investigating Officer.

The Chairman, Cllr M Hall highlighted that the tape transcript provided as part of the documentation was unhelpful as you could not tell who said what, he asked if this had been raised with Ferndown Town Council as it was difficult to judge the situation without the evidence. Ferndown Town Council had been advised of these difficulties. The Investigating Officer confirmed that Ferndown Town Councillors had not received Code of Conduct training since 2019.

The Chairman invited Cllr Hanson Graham to respond to the complaint.

Cllr Hanson Graham read his statement from the agenda bundle and rejected the allegations made against him. He stated the complaint was a politically motivated personal attack by Cllr C Lugg and another attempt by Cllr C Lugg to intimidate him. Cllr C Lugg's complaint referred to a meeting that he had attended but it was one of many complaints. He alleged that Cllr C Lugg had punched him and targeted him with verbal and physical abuse. He thought it was obvious that Cllr C Lugg saw him and his political party as a threat. He stated that the meeting did get heated but that was not against the Code of Conduct and that he would abide by any decision of the Chairman as required. He felt that the complaint against him was trivial and vexatious and that having disagreements with another councillor was not against the Code of Conduct.

Cllr Hanson Graham stated that he had experienced aggression against him since he had joined Ferndown Town Council and that the hostility had given him depression and anxiety. He said that the Conservative Group tended to dominate at the town council and that he was entitled to ask questions about the council's finances and not be shouted down. He denied having bullied,

intimidated or been rude. In conclusion Cllr Hanson Graham felt that he was the victim and that the allegations against him were politically motivated.

The Chairman invited Cllr Baxter to speak as a witness for Cllr Hanson Graham.

Cllr Baxter read out a statement that had not been provided as part of the investigation. He explained that in his view the events leading up to the complaint stemmed from low level animosity going back a number of years prior to Cllr Hanson Graham joining the council. Traditionally town councils were non-political but this was not the case at Ferndown Town Council and Cllr Hanson Graham tended to be the most vocal of the non-Conservative members. The Chairman asked for Cllr Baxter to make comments only in respect of the subject matter of the complaint. Cllr Baxter went on to explain that to his knowledge Cllr Hanson Graham had never bullied anyone. He advised the sub-committee that he had not been present at the committee meeting in question but he understood that the comments made by Cllr Hanson Graham were trivial and that he couldn't believe that this had led to a complaint.

In response Cllr C Lugg made the point that all of the information verbally reported by Cllr Baxter had not been included within the agenda bundle, yet the sub-committee had chosen to disregard her supplementary information. The Deputy Monitoring Officer advised that she would bring the sub-committee's attention to the fact that Cllr Baxter's statement was not included within the agenda bundle.

In summing up his report the Investigating Officer stated that there was insufficient evidence to prove that bullying and intimidation had taken place and that whether or not someone agreed or disagreed with your views was not a Code of Conduct complaint.

The Independent Person confirmed that he had nothing to add.

At 12.18pm members of the sub-committee withdrew to consider their decision.

On returning to the meeting the Chairman read out the decision of the sub-committee:

Decision

Having heard all of the views today and having read all of the papers, and having taken account of the view if the Independent Person, the committee has made a decision to agree with the recommendation of the Investigating Officer and find that there has been no breach of the Code, as there was insufficient evidence to show a breach.

The sub-committee did not disbelieve the concerns raised by Cllr Lugg and the content of the complaint has given the sub-committee wider concerns

regarding Ferndown Town Council which will be raised with the Monitoring Officer.

In accordance with our complaints process there is no right of appeal.

Appendix to Minutes - Decision Notices

Duration of meeting: 9.30 am - 1.15 pm

Chairman

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DORSET COUNCIL DECISION NOTICE

Complaint Reference: 1
Subject Member: Cllr N Ireland
Date of Hearing: 7 July 2021
Audit and Governance (Hearing) Sub-Committee

1. Summary of the Complaint

The Complainant alleged that Cllr N Ireland acted inappropriately and in breach of Dorset Council's Member Code of Conduct by posting to social media and by emailing Members of the Western and Southern Area Planning Committee prior to their meeting on the 3rd October 2019 to ask they decline a planning application.

2. The Conduct of the Hearing

The conduct of the hearing is as detailed in the Audit and Governance (Hearing) Sub-Committee minutes, a copy of which are appended to (and forms part of) this Decision Notice.

3. The Hearing Sub-Committee's Decisions

3.1 The Hearing Sub-Committee's decisions are detailed in the appended minutes. However, the Hearing Sub-Committee's key conclusions are also set out below.

3.2 Members of the Sub-committee having heard all of the views during the hearing and having read all the papers and taken account of the view of the Independent Person reached a unanimous decision to agree with the recommendations of the Investigating Officer and find that there has been a breach of the code, in particular the principles of public life.

3.3 The Sub-Committee commented that Councillors can have opinions and can express views but the way it has been done calls into question the integrity of the councillor, the planning process and the planning committee.

3.4 The Sub-committee decided that an apology from Cllr N Ireland to the next planning committee was an appropriate and proportionate response to the complaint.

J Mair

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Jonathan Mair
Monitoring Officer

Right of Appeal: There is no right of appeal against the decision of the Audit and Governance (Hearing) Sub-Committee.

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**DORSET COUNCIL
DECISION NOTICE**

Complaint Reference: 2
Subject Member: Cllr P Hanson Graham
Date of Hearing: 7 July 2021
Audit and Governance (Hearing) Sub-Committee

1. Summary of the Complaint

The Complainant alleged that Cllr P Hanson Graham had breached the Ferndown Town Council Member Code of Conduct in respect of bullying, offensive behaviour and a failure to show respect.

2. The Conduct of the Hearing

The conduct of the hearing is as detailed in the Audit and Governance (Hearing) Sub-Committee minutes, a copy of which are appended to (and forms part of) this Decision Notice.

3. The Hearing Sub-Committee's Decisions

- 3.1 The Hearing Sub-Committee's decisions are detailed in the appended minutes. However, the Hearing Sub-Committee's key conclusions are also set out below.
- 3.2 Members of the Sub-committee having heard all of the views during the hearing and having read all the papers and taken account of the view of the Independent Person reached a decision to agree with the recommendations of the Investigating Officer and find that there has not been a breach of the code, as there was insufficient evidence to show a breach.
- 3.3 The Sub-Committee did not disbelieve the concerns raised by Cllr Lugg and the content of the complaint has given the Sub-Committee wider concerns regarding Ferndown Town Council which will be raised with the Monitoring Officer.

...*J Mair*.....

Jonathan Mair
Monitoring Officer

Right of Appeal: There is no right of appeal against the decision of the Audit and Governance (Hearing) Sub-Committee.

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