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AUDIT AND GOVERNANCE (HEARING) SUB-COMMITTEE

MINUTES OF MEETING HELD ON MONDAY 24 OCTOBER 2022

Present: Cllrs Belinda Bawden, Richard Biggs and Susan Cocking

Apologies: There were no apologies for absence

Also present: Cllr Mike Parkes (Ferndown Town Council), Cllr Hanson Graham (Ferndown Town Council)

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

Grace Evans (Head of Legal Services and Deputy Monitoring Officer), Susan Dallison (Democratic Services Team Leader), Jacqui Andrews (Service Manager for Democratic and Electoral Services) and John Miles (Democratic Services Officer Apprentice)

64. Election of Chairman

It was proposed by Cllr Susan Cocking, seconded by Cllr B Bawden

Decision

That Cllr R Biggs be elected Chairman

65. Declarations of Interest

There were no declarations of interest.

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

The terms of reference were noted.

67. Urgent Items

There were no items of urgent business.

68. Exempt Business

The Chairman asked those present if there was any reason that the meeting should be held in exempt business. No reasons were put forward the Chairman therefore announced that the meeting would be held in public.

69. **Code of Conduct Complaint 1 - commencing at 2.00pm**

The report was presented by Ms Jacqui Andrews on behalf Mr Roger Greene, the Investigating Officer, who had retired from Dorset Council.

The presenting officer outlined the complaint submitted by Cllr L Fry and Cllr D Walsh and a confidential Dorset Councillor against Cllr D Tooke which related to an alleged breach of the Councillor Code of Conduct at a Planning Webinar on 25th May 2022. The complaints made related to Cllr Tooke's alleged conduct at the webinar, which was said to be aggressive, rude, discourteous, impolite, and disrespectful to members and an officer in attendance. The presenting officer explained that, as she had not undertaken the investigation, her role was to present Mr Green's view and to highlight the relevant legislation and case law that members of the committee would need to consider when considering the complaint.

The main issue for the committee to consider was Freedom of Expression. In line with Article 10 of the European Convention on Human Rights it was possible for councillors to express strong views, and/or challenge views, opinions and decisions of councillors and officers. Article 10 protected the freedom of expression to hold opinions and ideas, including speech, which might be unpopular or shock. There was also case law that gave councillors enhanced protection of freedom of expression which extended to all matters of public administration and public concern including comments on the adequacy or inadequacy of performance of public duties by others. The presenting officer also highlighted the importance to balance the enhanced protection and open discussion against a requirement to protect officers and to take a proportionate stance.

Having taken legislation and case law into account and having reviewed the recording of the webinar and consideration of the 3 complaints received against Cllr D Tooke and Cllr Tooke's response, Mr Greene's recommendation was that there was no breach of the Code of Conduct.

The Chairman of the Sub-committee asked the parties in attendance if they had any questions to put to the presenting officer, Cllr Walsh, Cllr Fry, Cllr Tooke, Cllr Bawden, Cllr Cocking and the Independent Person, Elizabeth Whatley had no questions.

The Chairman invited Cllr D Tooke to respond to the complaint, Cllr Tooke replied that his response was clear in the report and that he had discussed the matter with Mr Greene who had viewed the webinar, he therefore had nothing to add.

The Chairman invited Cllr Fry to respond to the findings of the report and Cllr Fry stated that whilst he accepted the conclusions of the Investigating Officer's report, he was disappointed that the Dorset Council Behaviour Framework was at odds with the outcome of the report, and he felt that this issue should be addressed. In response the Deputy Monitoring Officer stated that the proceedings of the Sub-committee were in respect of the Councillor

Code of Conduct, however if Cllr L Fry continued to have concerns a discussion could be held with the Monitoring Officer, Jonathan Mair, to discuss in general terms the Council's Behaviour Framework, the Code of Conduct and the sanctions that were or were not available, as the case maybe.

At 2.30pm the members of the Sub-committee went into private deliberation to consider the decision the Sub-committee.

On returning to the committee room at 3.00pm the Chairman announced the decision of the Sub-committee:

Decision

Having heard from the presenting officer on behalf of the Investigating Officer and having read all of the papers and having taken account of the view of the Independent Person, the committee made a decision to agree with the recommendation of the Investigating Officer and found that there had been no breach of the Code of Conduct.

Before closing the meeting, the Chairman thanked Cllr L Fry for his comments that would be taken forward to the Monitoring Officer for discussion on some of the wider issues outside of the Code of Conduct.

70. Code of Conduct Complaint 2 - commencing at 3.15pm

Complaint 2 commenced at 3.15pm.

The report was presented by Ms Jacqui Andrews on behalf Mr Roger Greene, the Investigating Officer, who had retired from Dorset Council.

The presenting officer outlined the complaint submitted by Cllr M Parkes in his capacity as a Ferndown Town Councillor in respect of the alleged conduct of Cllr Paul Hanson Graham. The complaint alleged that Cllr Hanson Graham failed to show respect and displayed poor behaviour at a meeting of the Full Council of Ferndown Town Council on 17th January 2022. It was alleged that Cllr Hanson Graham made a number of derogatory comments and remarks about Dorset Council Councillors who were present at the meeting. At the Full Council meeting both Cllr M Parkes and the Town Clerk asked that Cllr Hanson Graham make an apology for his comments, but it was alleged that he failed to do so. The complaint also alleged that Cllr Hanson Graham raised issues about a planning matter where there were concerns about him having predetermined the matter having had discussions directly with the developer. It was alleged that Cllr Hanson Graham failed to take advice in respect of this issue and continued to speak on the matter.

Mr Greene had written to both Cllr Parkes and Cllr Hanson Graham on 3 occasions and did not receive a response. Mr Greene checked the contact details with the Town Clerk and in a final letter advised that if he did not hear from either party, he would close the investigation. Having received no

response Mr Greene wrote to both parties on 14th April 2022 confirming that he would close the case and take no further action. Subsequently Cllr M Parkes advised the Deputy Monitoring Officer that he had not received the initial letter from Mr Greene but had received the second letter in March 2022 and had replied in writing as he had received the letter in hard copy. It appeared to the presenting officer that Mr Greene had not received the letter from Cllr Parkes that had been sent in the post.

In the circumstances Mr Greene's recommendation to the Sub-committee was no breach of the Code of Conduct and that no further action be taken.

The Chairman asked Cllr Parkes if he would like to comment on what he had heard. Cllr Parkes confirmed that he did not receive the first letter sent by Mr Greene but did receive the second letter and he had written back to Mr Greene on the 4th April and he had a copy of that letter. The letter that he had sent had asked that Mr Greene contact the Town Clerk for a statement and contact 7 other councillors that were also willing to provide a statement. Cllr Parkes felt disappointed with the process and felt that the complaint had not been investigated properly. The Chairman thanked Cllr Parkes for his comments and agreed to look into the council's processes to see what improvements could be made.

In response to a question from the Independent Person regarding why the other 7 councillors had not submitted statements, Cllr Parkes explained that he had agreed to submit the complaint against Cllr Hanson Graham on behalf of the other councillors and that he had spoken to them and 7 were prepared to submit a written statement so it was disappointing that this had not been taken into account.

At 3.33pm Cllr Hanson Graham arrived at the meeting.

The Chairman asked the presenting officer to repeat her presentation of the Investigating Officer's report.

Following the presentation, the Chairman asked Cllr Hanson Graham for his comments. Cllr Hanson Graham stated that he did receive a copy of the documents from Mr Greene and Mr Greene's opinion was that there was no breach of the code.

In response to a question from Cllr Susan Cocking, Cllr Hanson Graham explained that he had spoken to Mr Greene on the telephone and that Mr Greene had sent another copy of the documents as he had moved house. Cllr Hanson Graham could not remember if he had then replied to Mr Greene and he confirmed that he had not sent a written statement.

The Chairman asked Cllr Hanson Graham if he had tried to use his position as a councillor to try to influence members of the Planning Committee. Cllr Hanson Graham replied that he was not corruptible and that he would not try and influence people.

At that point (3.50pm) the members of the Sub-committee went into private deliberations to consider the decision of the Sub-committee.

On returning to the committee room the Chairman of the Sub-committee announced the following:

Decision

Having heard from the Presenting Officer on behalf of the Investigating Officer and having read all of the papers and having taken account of the view of 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.

The Chairman thanked Cllr Parkes for his comments about the investigation and communications which would be acted upon to see how the process could be improved in the future.

Decision Notice - Cllr D Tooke
Decision Notice - Cllr P Hanson Graham

Duration of meeting: 2.00 - 4.30 pm

Chairman

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DORSET COUNCIL DECISION NOTICE

Complaint Reference: 1
Subject Member: Cllr D Tooke
Date of Hearing: 24 October 2022
Audit and Governance (Hearing) Sub-Committee

1. Summary of the Complaint

The Complainants alleged that Cllr D Tooke had breached the Dorset Council Code of Conduct in respect of aggressive, rude, discourteous, impolite and disrespectful behaviour to councillors and an officer at a Planning Webinar on 25th May 2022.

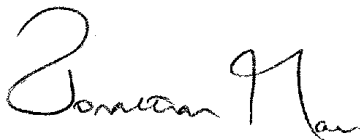
2. The Conduct of the Hearing

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.



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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: 24 October 2022
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 Code of Conduct in by failing to show respect and displaying poor behaviour at a meeting of the Full Council of Ferndown Town Council on 17 January 2022.

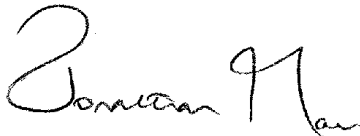
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3.2 Members of the Sub-committee having heard all of the views during the hearing and having read all the papers and taken account of the view of the Independent Person reached a decision to agree with the recommendations of the Investigating Officer and find that there has not been a breach of the code.



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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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