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AUDIT AND GOVERNANCE (HEARING) SUB-COMMITTEE

MINUTES OF MEETING HELD ON WEDNESDAY 9 NOVEMBER 2022

Present: Cllrs Richard Biggs, Bill Pipe and Bill Trite

Apologies: None

Also present: Mr C Lousley, (Independent Person), Cllr A Hollingshead (Shaftesbury Town Council), Cllr K Tippins (Shaftesbury 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) and Jacqui Andrews (Service Manager for Democratic and Electoral Services)

71. Election of Chairman

It was proposed by Cllr Bill Trite and seconded by Cllr Richard Biggs

Decision

That Cllr Bill Pipe be elected Chairman.

72. Declarations of Interest

There were no declarations of interest.

73. Hearing Sub-Committee Terms of Reference

The terms of reference were noted.

74. Urgent Items

There were no items of urgent business.

75. Exempt Business

The Chairman of the Sub-committee asked if there were any objections to the meeting being held in public, as there were none the meetings was held in open session.

76. Code of Conduct Complaint

The Presenting Officer introduced a complaint made by Cllr K Tippins against Cllr A Hollingshead and Cllr A Chase (Shaftesbury Town Council) in relation to a press and media statement issued by Cllr Hollingshead (Mayor at the

time) and Cllr Chase (Deputy Mayor and Chairman of the Staffing Committee at the time) on 15th December 2021. The circumstances of the case being the resignation of the former Town Clerk and the public statement to local media outlets that Cllr K Tippins was responsible for the resignation after a relentless and vindictive campaign of bullying since 2019.

The Presenting Officer, Ms J Andrews explained that as she did not undertake the investigation, her role in respect of the complaint was merely to present Mr Greene's report and that she would be unable to answer any questions in respect of why certain documents were included in the pack or what Mr R Greene meant when writing certain statements. Mr Greene had retired and was no longer an officer of Dorset Council.

On 24th December 2021, a complaint was received from Shaftesbury Town Councillor K Tippins, in respect of Shaftesbury Town Councillors Andrew Hollingshead and Alex Chase. The complaint related to a joint press statement issued by Cllrs Hollingshead and Chase on 15th December 2021 following the resignation of the Town Clerk. The statement, available in full as part of Mr R Greene's pack, stated "... as citizens, it is only right that you also know why Claire is leaving. This is because of a relentless and vindictive campaign of bullying by Councillor Karen Tippins, which is a matter of public record. At the Dorset Council Audit and Governance (Hearing) Sub-Committee of the 20th September 2021 the panel unanimously agreed that her behaviour "amounted to bullying and harassment over a period of time"."

A number of documents were presented as part of the agenda prepared by Mr R Greene some of which had been provided by the parties to this complaint. As the statement and press release of Cllr Hollingshead and Cllr Chase referred to the earlier complaint against Cllr K Tippins which concluded at the Sub-committee on 20th September 2021, the complaints and outcome were included in the report bundle for information. However, the outcome of the Sub-Committee on 20th September 2021 was not included for further discussion but merely to reference the findings of that Audit & Governance Sub-Committee as referred to in the press statement issued by Cllrs Hollingshead and Chase.

The Presenting Officer explained that it was important to focus on the nature of the complaint i.e., the complaint made by Cllr K Tippins regarding the press statement issued by Cllrs A Hollingshead and A Chase and advised the members the Sub-committee not to be distracted by previous code of conduct hearings or other issues raised in correspondence with Mr R Greene. Many matters had been dealt with including the earlier Sub-Committee in September 2021, and it was not for members of the Sub-committee to review the conclusion reached by the previous Sub-Committee nor for other parties to query the outcome of previous Sub-Committees. Any comments were therefore to be constrained to the matter before the Sub-Committee today i.e. the Press Statement.

Cllr K Tippins' complaint was that the following paragraphs of the Code had been breached by Cllr A Hollingshead and Cllr A Chase:

- “2.1 I do not bully any person.
- 2.2 I do not harass any person.
- 4. Confidentiality and access to information
- 5.11 do not bring my role or local authority into disrepute.
- 6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.”

Details of the private discussions between the former Town Clerk and Councillors Hollingshead and Chase in respect of her resignation had not formed part of Mr R Greene’s investigation. However, the former Town Clerk Mrs C Commons had written to Mr R Greene advising the content of their press statement drew upon the reasons for her resignation without divulging the contents of her resignation letter in detail. In her letter to Mr R Greene, Mrs C Commons said that Cllr K Tippins stated that the published statement was false and libellous but without having sight of her resignation letter Mrs C Commons doesn’t believe Cllr K Tippins can assert that. Mrs C Commons also commented to Mr R Greene “My resignation was as a result of continuing aggressive and intimidating behaviour by a small collection of individuals consisting of Cllr K Tippins and others she had worked or has close connections with. Those other individuals are not the subject of this matter and I therefore shall not name them.”

The Presenting Officer commented that whilst the press statement may have been factually correct, it was for members to consider whether they believed that the content of the statement was appropriate, or if the content and tone was unfortunate and ill-advised especially when you would expect all parties to be seeking to build better relationships within the Town Council. You will also want to consider whether the press statement amounts to a breach of the Code of Conduct as alleged by Councillor Tippins. When considering the press statement, members should also consider whether it was reasonable and appropriate that the statement set out the reasons for the Town Clerk’s resignation or whether the detail was included in an attempt to bully or harass Cllr K Tippins as she had alleged in her complaint.

It was important that members of the Sub-committee give consideration to legislation and case law that covered Freedom of Expression. Article 10 of the European Convention on Human Right protected freedom of expression to hold opinions and ideas, including speech, which might be unpopular or shock. It was ok for Councillors to express strong views, and/or challenge views/opinions/decisions of councillors and officers and, in fact, this was part of a councillor’s duty. There was case law that gave councillors enhanced protection of freedom of expression which extended to “all matters of public administration and public concern (referred to as political expression) including comments about the adequacy or inadequacy of performance of public duties by others. However, it did not extend to “gratuitous personal comments” (Harvey and Heesom v Public Services Ombudsman for Wales (2014))

There was further case law that had clarified that:

- It was acceptable to make critical comment to councillors or officers, with greater tolerance of conduct to councillors than officers as Councillors were elected and expected to have thicker skin.
- There was a degree of toleration of immoderate, provocative, emotive, irrational, aggressive, offensive or shocking speech

Mr R Greene's report stated, "It is a case where I recommend on balance non breach but question the precise wording of the Press Statement as being necessary?". Having taken into account the evidence provided by Mr R Greene in his report together with the Code of Conduct, legislation and case law the Sub-Committee were asked by the Presenting Officer to consider whether there had been a breach of the Code.

The Chairman, Cllr B Pipe asked Cllr A Hollingshead if he had any questions for the Presenting Officer.

Cllr Hollingshead stated that Mr Green's letter he has said he was only dealing with the press statement. The Presenting Officer confirmed that Mr Green had stated that his recommendation was based solely on the complaint only. Cllr Hollingshead asked that the Presenting Officer explain the test of the balance of probabilities. In response the Monitoring Office explained that the decision taken at the meeting would be based on evidence considered on a balance of probabilities, i.e., it was not the criminal test. Cllr Hollingshead stated that if the members of the Sub-committee concluded that the statement was true and that the Town Clerk left her job because of bullying then he would argue that there was no case to argue. The Presenting Officer responded that regardless of the truth or untruth of the statement it was for the Subcommittee to decide if there was a breach of the Code of Conduct. Cllr Hollingshead replied that the statement that he had made was true and pertinent to the case. Mr R Greene had said that any irrelevant matters would be rejected and that he would not consider any historical information. The Presenting Officer advised that she was unaware of whether Mr R Greene had rejected any material. Cllr Hollingshead stated that a number of issues has been raised by Cllr Tippins but he considered them all to be irrelevant and not pertinent to the hearing. The Presenting Officer responded that if Cllr K Tippins was alleging a breach of a Town Council policy the Sub-committee would need to take that into account as part of their debate. Cllr Hollingshead referred to the 7 principles of public life and asked if Mr R Green had considered this? The Presenting Officer replied that she could not comment on that issue but note that Mr R Greene had said that he had considered all the information in the agenda pack and that included the Town Council Model Code of Conduct which in turn included the principles of public life. Cllr Hollingshead stated that Mr Greene's report had highlighted that the previous hearing in September 2021 had found that Cllr K Tippins had breached the Code of Conduct in respect of bullying the Town Clerk. Cllr Hollingshead referred to key issue number 4 in the report relating the timing of the press release which had been considered by Mr Greene, he asked whether Mr Greene was aware of the timings of the Shepton Mallet post and how that had fitted in with the timings in question. The Presenting Officer suggested that was maybe an issue that Cllr Hollingshead may wish to raise as part of his presentation. Cllr Hollingshead stated that Mr R Greene had recommended a

non-breach and asked if the Presenting Officer concurred with this finding. The Presenting Officer reiterated that she did not carry out the investigation and it was therefore not appropriate for her to comment on the recommendation within the report when she had not been party to all of the interviews.

The Independent Person, Mr C Lousley confirmed that he no questions at that time.

Cllr R Biggs asked whether the statement issued to the media outlets could be viewed as bringing the council into disrepute. The Presenting Officer advised that the Sub-committee would need to consider that issue when deliberating their decision based on all of the information received in the meeting.

Cllr K Tippins asked about Article 10 of the European Convention on Human Rights as quoted by the Presenting Officer and queried whether this applied to the press statement. Cllr Tippins explained that the statement was sent to 6 media outlets and had not been voted through by any town council meeting. The Monitoring Officer advised that the Sub-committee would take account of Article 10 when they were deliberating on the decision. If the Sub-committee found a breach of the Code of Conduct then they would need to consider whether Article 10 had any relevance.

Cllr K Tippins stated that the Town Clerk had accepted a promotion the day before the statement was published. At that point the Chairman requested that Cllr Tippins ask questions rather than statements, as there were no more questions the Chairman invited Cllr K Tippins to present her statement to the Sub-committee.

Cllr K Tippins stated that the press release was sent out on 15th December 2021 by Cllr A Hollingshead and Cllr A Chase and that she had no advanced warning of this press release. Cllr K Tippins was contacted by an editor who made her aware of the press release and advised that it had also gone out on social media. The article that went out to 50,000 social media users implied constructive dismissal as it did not say that Mrs Commons, the Town Clerk had already accepted a promotion at Shepton Mallet Town Council. Cllr K Tippins explained that she had never seen the resignation letter from the Town Clerk but in the resignation letter it should have said that she had accepted a promotion. Cllr K Tippins said that she had received a threatening letter from Cllr Hollingshead to say that they would hold a vote of no confidence in her as Mrs Commons had resigned. Cllr K Tippins felt that this was intimidation and that she had been kept in the dark. The abuse that she received on line was horrendous and went on so many social media pages, it was highly abusive and misogynistic. Cllr K Tippins explained that she could not go onto the website to put her own view across, and others had to report the abuse on her behalf. There were over 100 highly abusive Facebook statements made against her. The editor who had contacted her had refused to publish the statement and said that it was councillors being malicious and that there was no formal statement on the Shaftesbury Town Council website. All of other news outlets had refused to publish the statement apart from This

is Alfred, as they were friends with Cllr Hollingshead. She felt that Cllr Hollingshead and Cllr Chase were picking on her; members of the public had sent her emails saying how disgusted they were with the treatment against her. Cllr K Tippins felt that Cllr Hollingshead and Cllr A Chase and other Cllrs wanted her to resign from the council and it was intimidation. The councillors knew that she had been blocked from the This is Alfred web page. She felt that it was blatant intimidation and malicious; it was very unpleasant, and it had to stop.

Cllr Hollingshead said that on 7th August 2022 in a letter to Mr Greene, Cllr K Tippins stated that Mrs Commons had accepted a promotion, he asked Cllr Tippins where she had got this information from. Cllr K Tippins responded that the contract of employment was on the Shepton Mallet Town Council website

The Independent Person, Mr C Lousley asked Cllr Tippins if she had undertaken further training since the Sub-committee Hearing in September 2021.

Cllr Tippins stated that she had received further training and that she had the highest attendance record of training on the town council, in the current year she had attended 4 DAP|TC training courses.

Cllr B Pipe asked if she had attended the training course that had been specified by the Sub-committee. Cllr K Tippins replied that she had already been on that training course. She had checked with DAP|TC and asked for it to be put on her Cllr record as she had already been on all of the Code of Conduct courses.

At that point in the meeting Cllr B Pipe invited Cllr A Hollingshead to make a statement about the press release.

Cllr Hollingshead advised the Sub-committee that the resignation letter from the Town Clerk was sent direct to himself and Cllr A Chase and did not mention Cllr Tippins. The press release stated that Mrs Commons had left the town council due to bullying from Cllr Tippins. Mrs Commons did not receive a promotion in her new role at Shepton Mallet Town Council. Cllr K Tippins had said that she had no contact with the Clerk but she did attend council meetings with the Clerk and he had copies of emails that had been sent from Cllr Tippins to the Clerk. The issue of breaching town council policy did not fall within the consideration of the hearing today as they were town council policies. The press release had to be considered on the balance of probability, on the evidence within the pack and what the Sub-committee heard. The statement that he made together with Cllr A Chase was absolutely true. Cllr Hollingshead read out the ACAS definition of bullying and stated that he had emails if the Sub-committee wished to see them.

In response to a question from Cllr K Tippins, Cllr Hollingshead replied that the resignation letter did not mention Cllr K Tippins but arose in private conversations with the Clerk.

Cllr B Trite asked Cllr Hollingshead if he advised Cllr Tippins of the statement in advance and if not was there a reason why he did not advise.

Cllr Hollingshead stated that he did not tell Cllr K Tippins that the press release was going to be sent out but was aware that the press would contact Cllr K Tippins for comment.

Cllr R Biggs asked that in light of all of the unpleasantness did Cllr Hollingshead regret issuing that press release?

Cllr Hollingshead stated that neither himself or Cllr A Chase regretted issuing the statement as it was a matter of fact and based on the fact that Cllr Tippins systematically bullied Mrs Commons and as it was a matter of fact, as Mayor at that time he felt that the town should know what the elected councillors were doing.

Cllr R Biggs asked whether Cllr Hollingshead believed that it was a misuse of his power to put out such a statement based on the impact that the statement would have on the town council.

Cllr Hollingshead replied that a statement was needed as the Clerk had resigned and needed to state the reason for the Clerk resigning; once the facts were out in the open it was important that they were communicated. It was Cllr Tippins' behaviour that led to Clerk to leave the town council

Cllr B Pipe asked why the statement only mentioned Cllr Tippins when the Clerk had said that it was councillors, including Cllr Tippins involved in bullying?

Cllr Hollingshead replied that Cllr Tippins was the prime reason for the Clerk resigning even though problems had been caused by some other councillors.

Cllr B Pipe asked if Cllr Hollingshead had permission from the Clerk to issue the press release.

Cllr Hollingshead said that he couldn't remember but he did not believe that he got the Clerk to sign off the press release; as Mayor he had more leeway on communicating with the press and he took that initiative, and he took the decision.

The Independent Person Mr C Lousley asked what prompted the press release at the time?

Cllr Hollingshead replied that the Clerk informed him that she was resigning and as Shaftesbury was a small town it was obvious that questions would be asked so a statement was needed to be ahead of the questions from the press.

Mr Lousley was still not clear from the response from Cllr Hollingshead if a request for a press statement had actually been made and he asked if Cllr Hollingshead could remember if he had received a request?

Cllr Hollingshead said that his recollection was that they had prepared a statement, then put the statement out and then he received a request for an interview from the press; he had therefore anticipated a request from the press.

The Independent Person expressed his concern about the tone of the statement which was why it was so important to understand the sequence of the events. It appeared that Cllr Hollingshead and Cllr Chase had agreed that it was the appropriate time to issue the press release without referring it to anyone else or seeking any guidance. The Independent Person asked if he regretted the tone of that statement which talked about an orchestrated campaign of bullying; did Cllr Hollingshead think it might have been better to

have used words from the 2021 Sub-committee Hearing rather than adding in words.

Cllr Hollingshead replied that the press release would have said the same thing and that he wanted to be open and honest, the clerk had resigned because she had been bullied by Cllr Tippins, the clerk would not have left if she had not been bullied. He said that he was not going to mince his words and that Cllr A Chase fully supported this view.

The Independent Person explained that he was concerned that there were on-going problems at the town council which had not stopped so, whatever Cllr Hollingshead's feelings about Cllr Tippins, to issue such a statement was putting petrol on the fire. Mr Lousley asked if Cllr Hollingshead understood that someone at the town council had to try and make things work and that the statement did nothing to help the situation.

Cllr Hollingshead said that he understood the point being made and clarified that the council did not consist of councillors at each other throats, and as a collective group they had tried to make changes and include Cllr Tippins. Cllr Tippins has turned down offers for counselling and it was what it was.

Cllr B Pipe asked if Cllr Hollingshead had the Clerk's permission to release the press release? Was it issued by town council or by you and Cllr Chase?

Cllr Hollingshead confirmed that it had been released by the Mayor and deputy Mayor. The email had been from his town council

Cllr B Pipe asked if the clerk had given permission for the statement. Cllr Hollingshead replied that he did not believe that he needed to get permission from the clerk as the words in the statement were a matter of fact.

Cllr B Trite asked if Cllr Hollingshead had ever made a similar press release in the past?

Cllr Hollingshead replied that he had done press releases before usually on a positive matter, but this was the first time he had put out a statement in his role of Mayor covering a difficult issue.

Cllr R Biggs asked if it would have been reasonable that the press release had been endorsed by the council?

Cllr Hollingshead replied that it was signed off by himself as Mayor and Cllr Chase as Deputy Mayor.

At 4pm as there were no more questions the members of the Sub-committee left the meeting to make their deliberations in private.

On returning to the meeting with all parties present the Chairman announced the following decision:

Decision

Having heard from the Presenting Officer on behalf of the Investigating Officer, from Cllr Tippins and Cllr Hollingshead, having read all of the papers, taken account of the view of the Independent Person, and after lengthy deliberation the Sub-committee has made a decision. The Sub-committee

agrees with the recommendation of the Investigating Officer and find that there has been no breach of the paragraphs 2.1, 2.2, 4, 5.1, and 6.1 of the Code of Conduct. The Sub-committee considers that the evidence does not show a breach of confidentiality or of bringing the councillors roles or their council into disrepute. The Sub-committee consider that the wording of the press release was an unfortunate and ill-judged statement but in their view this does not amount to bullying or harassment or improper use of position.

The Sub-committee considers it unfortunate that Cllr Hollingshead and Cllr Chase did not reflect more carefully before releasing the statement which although it quoted the findings of the Sub-committee in September 2021 none the less embellished it in a way which was not necessary and with the benefit of hindsight and perhaps advice from others should not have been issued in the form that it was.

Appendix - Decision Notice

Duration of meeting: 2.00 - 6.00 pm

Chairman

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DORSET COUNCIL DECISION NOTICE

Complaint Reference: xx

Subject Member: Councillor A Hollingshead and Councillor A Chase

Date of Hearing: 9 November 2022

Audit and Governance (Hearing) Sub-Committee

1. Summary of the Complaint

The Complainant alleged that Councillor Hollingshead and Councillor Chase breached sections of Shaftesbury Town Council Code of Conduct relating to behaviours and general obligations arising from a Press or Media Statement issued by the Councillors on 15 December 2021.

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 reviewed the papers provided in the agenda pack, taken account of the view of the Independent Person, and after lengthy deliberation:

3.2.1 agreed with the recommendation of the Investigating Officer that the conduct of Councillor Hollingshead and Councillor Chase did not amount to a breach of paragraphs 2.1, 2.2, 4, 5.1, and 6.1 of the Shaftesbury Town Council Code of Conduct.

3.2.2 considered that the evidence did not show a breach of confidentiality or of bringing the councillors roles or their council into disrepute. The Sub-Committee considered that the wording of the press release was an unfortunate and ill-judged statement but, in their view, this did not amount to bullying or harassment or improper use of position.

3.2.3 considered it unfortunate that Cllr Hollingshead and Cllr Chase did not reflect more carefully before releasing the statement which although it quoted the findings of the Sub-committee in September 2021 none the less embellished it in a way which was not necessary and with the benefit of hindsight and perhaps advice from others should not have been issued in the form that it was.

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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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