

AUDIT AND GOVERNANCE (HEARING) SUB-COMMITTEE

MINUTES OF MEETING HELD ON THURSDAY 22 FEBRUARY 2024

Present: Cllrs Richard Biggs, Barry Goringe and David Gray

Apologies: There were no apologies for absence

Also present: Cllr Belinda Bawden (complainant), Cllr C Aldridge (complainant), Cllr C Reynolds (subject councillor), Cllr M Ellis (subject councillor), Ms A Williams (friend representing Cllrs Reynolds & Ellis), Mr N Maton (witness), Mr R Nichols (Independent Person)

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

Grace Evans (Head of Legal Services and Deputy Monitoring Officer) and Susan Dallison (Democratic Services Team Leader)

8. Election of Chairman

It was proposed by Cllr Gray seconded by Cllr Goringe that Cllr Biggs be elected Chairman.

9. Apologies

There were no apologies for absence.

10. Declarations of Interest

The Chairman took the opportunity to explain to those present that as Dorset Councillors they were impartial in their decision making and were acting in the public interest.

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

The terms of reference and the complaints process were noted.

12. Urgent Items

Ms A Williams acting as the representative of Cllr Reynolds and Cllr Ellis made a statement to the Sub-committee. Ms Williams stated that she was a Deputy Monitoring Officer for a district council but she was attending this meeting as a friend of Cllr Reynolds and Cllr Ellis. Ms Williams asked the Sub-committee to disregard the report submitted in the agenda papers by Mr N Maton as she believed inclusion of this report was contrary to the Localism Act as Mr Maton, an Independent Person, had been sent to the Lyme Regis Town Council meetings before a written complaint had been received.

In response to the request the Chairman of the Sub-committee advised that the report from Mr N Maton would not be excluded from the papers for the meeting but assured Ms Williams that the members of the Sub-committee would be acting impartially and that they would listen to everyone's views at the meeting.

13. Exempt Business

The Sub-committee agreed that the meeting would be held in public.

14. Code of Conduct Complaint 1 - commencing at 2.00pm

Ms J Andrews, Investigating Officer presented her report in respect of a number of complaints made against Lyme Regis Town Councillors C Reynolds and M Ellis by Town Councillors B Bawden and C Aldridge.

To investigate the formal complaints received the following evidence had been taken into consideration by the Investigating Officer:

- Lyme Regis Town Council Code of Conduct dated April 2021.
- Lyme Regis Town Council Standing Orders adopted by Full Council on 18 May 2022.
- Report of Mr N Maton, who attended the Lyme Regis Full Council meeting on 15 February 2023.
- Audio recordings of the meetings referred to in the complaints.

The Investigating Officer had also interviewed a number of Lyme Regis Town Councillors and a record of those discussions had been appended to the report. The complaints were set out in full in the report and the Investigating Officer took the Sub-committee through each of the main issues in turn.

The first issue related to a visit by Cllr Ellis to the house of Cllr Sarson and following that visit a statement made by Cllr C Reynolds after a Human Resources Committee meeting, which was subsequently followed by an email exchange between councillors. The allegation was that Cllr Ellis went uninvited to the home of Cllr Sarson and, in the words of one of the complainants "hammered on his door and berated him for having the temerity to stand against her" for the position of Mayor.

The Investigating Officer was of the view that whilst it was entirely a matter for individual councillors to choose to observe what was perceived by some as tradition/custom/expectation, the Standing Orders of the Town Council were very clear that the role of the Mayor was voted upon annually and, whilst those wishing to put themselves forward for election may be expected to "canvass" for support, there should be no attempt to stifle the clearly documented democratic process for election of the Mayor.

Cllr Sarson had originally made a complaint via Cllr May but had subsequently withdrawn his complaint as he wanted to seek to foster good working relationships with all councillors.

It was alleged by Cllrs Bawden and Aldridge that the visit to Cllr Sarson's house by Cllr Ellis, the Mayor at that time, was unexpected and uninvited and that Mrs Sarson was left very upset by the exchange. Cllr Ellis did not deny that she went to visit Cllr Sarson but she had wanted to explain the "tradition" of allowing a Mayor a second year in office. Cllr Ellis said that she was not aggressive but merely wanted to ensure that Cllr Sarson understood the tradition/custom. The Investigating Officer reported to the Sub-committee that unfortunately all of the reports of this exchange had come from people who did not directly witness what was said and Cllr Sarson did not wish to raise a formal complaint himself.

In view of the fact that the evidence in respect of this complaint was largely hearsay from third parties, with the exception of Cllr Ellis who said that she did not raise her voice to Cllr Sarson, the Investigating Officer did not find a breach of the Code of Conduct in respect of the complaint.

At that point in the meeting the Chairman of the Sub-committee invited questions relating to this first issue.

In response from a question from Cllr D Gray, Ms Williams confirmed that the custom of a Mayor serving a second term had only been over turned once.

Cllr Bawden stated that Cllr Sarson had said how upset he had been over the incident and that Cllr Ellis had not taken the opportunity to apologise for her behaviour. Cllr Bawden felt that it was quite shocking and that he had been pressured into withdrawing his complaint. Cllr Bawden felt that this was bullying behaviour and as a result people were intimidated into not complaining.

The Chairman of the Sub-committee invited the Investigating Officer to continue with the presentation of her investigation report.

The second issue related to the conduct of both Cllr Ellis and Cllr Reynolds at a number of Lyme Regis Town Council meetings. Regarding the Planning Committee on 4 October 2022 and a comment made by Cllr Reynolds during this meeting where she said "I give up, I'm not listening to you Belinda", the view of the Investigating Officer was that whilst this was not respectful or polite, considering the rulings of case law this was not sufficient to amount to a breach of the Code of Conduct.

The next allegation was that at the Full Council meeting on 25 January 2023 Cllr Ellis raised her voice. Having heard the audio recording of the meeting the Investigating Officer was of the view that there were clearly tensions that could be heard and both officers and councillors were using forthright language which she believed to be the result of general frustrations with different views on the matter being considered. The Investigating Officer was therefore of the opinion that Cllr Ellis did not raise her voice to any greater extent than any other councillor in the meeting and was of the view that there was no breach of the Code of Conduct.

The Full Council meeting on 15 February 2023 was a more complex issue and the Investigating Officer referred the Sub-committee to the report

prepared by Mr N Maton, who had been present at the meeting. Mr Maton had been asked by the Monitoring Officer to attend the meeting to observe behaviours at Lyme Regis Town Council. For clarity the Investigating Officer highlighted to the Sub-committee that she had asked Mr N Maton to attend the hearing as a witness only, as he had been physically present at the meeting in question. In his report Mr N Maton referred to an item on the agenda relating to a request from Dorset Council to Lyme Regis Town Council to financially contribute towards the planned dredging of the harbour and associated costs. In Mr Maton's opinion the behaviour of Cllr Reynolds towards Cllr Bawden was contrary to the Lyme Regis Councillor Code of Conduct and the general conduct obligation to treat other councillors with respect. He stated in his report that he believed "her behaviour crossed the line beyond what is acceptable and at that point becomes a personal attack on Cllr Bawden." Mr N Maton also noted the intervention of the Town Clerk which he believed demonstrated that "others also found this behaviour to be inappropriate". He stated that he did not witness Cllr Reynolds either withdrawing her remarks or offering an apology for what she had said.

The Investigating Officer felt that whilst Cllr Reynold's tone could be described as "brusque", she was not convinced that it was sufficient to constitute a "personal attack" and, on balance, having only had the benefit of the audio recording of the meeting, and taking into account Cllr Bawden's statement that she was not particularly upset by the comment, the Investigating Officer concluded that Cllr Reynolds' questions did not amount to a breach of the Code.

The Investigating Officer also looked at the recorded vote issue. It had been suggested that Cllr Reynolds regularly requested recorded votes and this was seen by the complainants as being intimidatory. The Town Council's Standing Orders enabled any councillor to call for a recorded vote and Cllr Reynolds had said that she sometimes asked for a recorded vote so that local residents could see that she had voted in the way in which she had advised them she would. The Investigating Officer therefore did not believe that calling for a recorded vote amounted to a breach of the Code of Conduct.

In terms of general observations, the Investigating Office felt that the issues raised by all of the parties demonstrated that there were difficult relationships between the councillors, and that their behaviours were having a far-reaching impact on the reputation of the Town Council. Whilst the Heesom case cited in the investigation report indicated that a level of poorer behaviours was accepted in a political arena, it did not extend to "gratuitous personal comments" and should never be viewed as a "green light" to enabling poor behaviours.

One of the general principles in the Lyme Regis Town Council Code stated "I lead by example and act in a way that secures public confidence in the role of councillor". This was something that all councillors had signed up to when signing their Declaration of Acceptance of Office and the obligation remained through the councillor's term of office. The Lyme Regis Code had a paragraph headed "Leadership" and under this paragraph it stated that "Holders of Public Office should exhibit these principles in their own

behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviours whenever it occurs". Throughout the investigation it had been suggested that many councillors found certain behaviours unacceptable but didn't say anything at the time and complained privately outside of the meeting, in the view of the Investigating Officer it was incumbent on all councillors to challenge poor behaviour of their colleagues to ensure high standards of conduct at all times. Silent acceptance would not improve anything.

At that point the Chairman of the Sub-committee invited Mr N Maton to speak as a witness.

Mr N Maton introduced himself to the Sub-committee, he had been acting as an Independent Person for the council for last 10 years. He had received an email from the Monitoring Officer in February 2023 asking for a volunteer to attend some Lyme Regis Town Council meetings as there had been some concerns raised about behaviour at the Town Council. Mr Maton offered to attend the meetings and had decided not to introduce himself to the Town Clerk or councillors, so he attended as a member of the general public. He found that the meeting was held in quite an intimidating building and the Chairman of the Town Council sat high up with councillors to the side. The first item of business related to a petition. Members of the public who spoke on the item were all treated with respect and after the public speaking the majority of people left the meeting. The meeting had been well run until the councillors considered the item on the dredging of the harbour when the situation changed when there was an exchange between Cllr Bawden and Cllr Reynolds with Cllr Reynolds asking Cllr Bawden "shouldn't the town council come first"? It felt like a personal attack on Cllr Bawden and the end of the meeting became confusing with a lot of over talking in the meeting. The meeting closed without an apology from Cllr Reynolds or withdrawal of remarks. Mr Maton made further comments about the Investigating Officer's report. The Chairman of the Sub-committee thanked Mr Maton for presenting his report but note that his additional remarks about the Investigating Officer's report and audio recordings were beyond his role as witness and would be disregarded by the Sub-committee.

The Chairman of the Sub-committee then opened the meeting for questions.

In response to questions from Cllr Ellis, the Deputy Monitoring Officer explained that although Cllr Sarson had withdrawn his complaint the visit to his home was part of the current complaint and so part of the Investigating Officer's investigation and report. The complaints about Cllr Ellis and Cllr Reynolds had been investigated and reported on together as the substance of the complaints were substantially the same and this had been confirmed by the Council's Data Protection Officer as the correct course of action.

Ms A Williams asked to show the Sub-committee some photographs of the Lyme Regis Council Chamber, the Chairman of the Sub-committee ruled that he would not be accepting any new evidence.

The Chairman of the Sub-committee, Cllr Biggs asked Cllr Reynolds what she thought was the role of Cllr Bawden. In response Cllr Reynolds said that in her view there was a conflict of interest as Dorset Councillors had been elected by their residents to support their communities and in the past if a Dorset Councillor who was also a town councillor had this type of interest they would have abstained from voting.

Cllr Bawden stated that the phrase 'conflict to interest' had not been raised at the meeting and she felt that the questioning was a personal attack which was why the Town Clerk had advised her that she did not have to answer the question asked by Cllr Reynolds. Cllr Reynolds was very familiar with the requirement to declare any interests and the Town Clerk could see that it was an unnecessary question and a personal attack.

In response to a question from Cllr Biggs, Mr N Maton, stated that he did not believe that the behaviour at the meeting was appropriate. At that point Ms A Williams asked the Chairman if he was seeking the views of Mr Maton as the Independent Person and suggested that the matter would have been less confusing if the Town Clerk had been interviewed.

The Deputy Monitoring Officer clarified that Mr N Maton was attending the hearing as a witness called by the Investigating Officer and not as the Independent Person for these complaints. The Independent Person for these complaints was Mr R Nichols. The purpose of this Code of Conduct Hearing was to receive the report of the Investigating Officer. The Deputy Monitoring Officer confirmed that she would be advising the Sub-committee on all aspects of the evidence and during the deliberations would advise the committee as appropriate on any evidence that had been put forward in the meeting that had not been part of the Investigating Officer's report.

Cllr Bawden felt that the attitude of Cllr Reynolds was unacceptable at the Lyme Regis Town Council meeting and asked Mr N Maton if he thought that Cllr Reynolds had brought the town council into disrepute at that meeting. Mr N Maton felt that Cllr Reynolds had brought the council into disrepute.

In response to a question from Ms A Williams, the Independent Person, Mr Nichols replied that he had been consulted on whether the complaints should be investigated and that he was sufficiently concerned that they should be. He had also received the report from the Investigating Officer. The Deputy Monitoring Officer confirmed that Mr Nichols had been consulted by the Monitoring Officer on 7 March 2023. Ms A Williams suggested that this date pre-dated the submission of both complaints.

Cllr Reynolds made a closing statement setting out the details of her poor health in response to the comments made by Mr N Maton regarding her body language at the Full Council meeting. When harbour dredging item came up for consideration Dorset Council was asking for a larger financial contribution than in previous years, so she had sought clarification from Cllr Bawden about her role as she believed that Cllr Bawden had a conflict of interest. She asked the question for a second time as she found it difficult to hear Cllr Bawden who spoke quietly. Cllr Reynolds also believed that it was wrong that

complaints about herself and Cllr Ellis had been included on the same complaint form and that the complaints should have been separated at the beginning of the process to comply with data protection requirements. In addition, Cllr Reynolds clarified that a request for recording of vote was a procedure rule that enabled the public can see how councillors voted.

Cllr Bawden asked if the members of the Sub-committee had seen her earlier complaints of long-term bullying. The Investigating Officer confirmed that this was not part of the evidence before the Sub-committee as the previous complaints submitted by Cllr Bawden were not referred for further investigation.

At that point the Chairman of the Sub-committee adjourned the meeting at 15.40pm. Members of the Sub-committee, the Deputy Monitoring Officer, the Independent Person and the clerk left the room in order for the Sub-committee members to make their decision in private.

The meeting reconvened 16.55pm

The Chairman, Cllr R Biggs read out the decision of the Sub-committee: -

“Having heard the views of everyone present and the contents of the report of the Investigating Officer we are concerned about the behaviour of councillors at Lyme Regis Town Council meetings and how this may be viewed by the public.

The Sub-committee is satisfied that a legally compliant process has been followed, which accords with the rules of natural justice and the decision is made on the evidence provided.

We have heard from and considered in our deliberations the presentation of the Investigating Officer, from Cllr Reynolds, Cllr Ellis and their representative Ms A Williams, Cllr Bawden and Cllr Aldridge, we have read all of the papers, listened to the audio recordings, and taken account of the views of the Independent Person, Mr R Nichols. We have also considered the written witness evidence of Mr N Maton as appended to the Investigating Officer’s report and his verbal comments about his written evidence. The Sub-committee has limited its consideration of the evidence of Mr Maton to matters set out in his written report. In particular we have not taken into account comments about disrepute, fresh views about the Investigating Officer’s report and comments about audio recordings.

After lengthy deliberation the Sub-committee has made a unanimous decision. The Sub-committee agrees with the recommendations of the Investigating Officer and finds that there have been no breaches of the Code of Conduct by either Cllr Reynolds or Cllr Ellis. The Sub-committee finds as follows.

1. Due to insufficient evidence the Sub-committee finds no disrespect and no breach of the Code of Conduct by Cllr Ellis or Cllr Reynolds in relation to a home visit and subsequent meetings and emails;

2. No bullying and no breach of the Code of Conduct by either Cllr Ellis or Cllr Reynolds in respect of their conduct during meetings on 4 October 2022, 25 January 2023, 15 February 2023;
3. Cllr Ellis and Cllr Reynolds did not bring Lyme Regis Town Council into disrepute and did not breach the Code of Conduct.

Duration of meeting: 2.00 - 5.00 pm

Chairman

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