

Standards Committee
Local Assessment Sub-Committee
23 AUGUST 2017

Present: Councillors: David Coldwell, Brian Donnelly and Mike Morgan

SC/1 **ELECTION OF CHAIRMAN OF THE SUB-COMMITTEE FOR THE MEETING**

RESOLVED

That David Coldwell be elected Chairman of the Sub-Committee for the purposes of this meeting.

SC/2 **DECLARATIONS OF MEMBERS' INTERESTS**

Councillor David Coldwell declared a personal interest because he was acquainted with one of the complainants.

SC/3 **TO CONSIDER THE FOLLOWING EXEMPT OR CONFIDENTIAL INFORMATION:**

RESOLVED

That under Section 100A of the Local Government Act 1972 as amended the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act 1972 by virtue of the paragraph specified against the items and in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

SC/4 **TO CONDUCT ASSESSMENTS IN RELATION TO THE ALLEGED CONDUCT OF PARISH COUNCILLORS (CASE REFERENCES: CES: 141, 142, 143, 144, 145, 146 AND 147)**

Exempt information Paragraph 1 – Information relating to an individual

Assessments were conducted under the Localism Act 2011 Chapter 7 and the 'arrangements' which the Council has put in place for the assessment of such complaints under S 28(6) of the Act in relation to the alleged conduct of a number of Parish Councillors.

The Local Assessment Sub-Committee assessed seven complaints that had been received, each alleging that a Parish Councillor had failed to comply with the Parish Council's Code of Members' Conduct ('the Code').

There had been a number of different Complainants comprising members of the public as well as Parish Councillors and all complaints related to Members of the same Parish Council: CES/141 related to Subject Member A; CES/142, 144, 145 and 146 related to Subject Member B; CES/143 related to Subject Member C; and CES/147 related to Subject Member D.

The allegations had been received between 23 May and 11 June 2017 and referred to the following paragraphs of the Code:

CES/141 and CES/142: Part 1: 3(1) You must treat others with respect; 3(2) you must not (b) bully any person, (c) intimidate or attempt to intimidate any person who is likely to be a complainant or a witness; 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute; The Nolan General Principles of Public Life – accountability, openness, leadership. These two complaints related to the same incident.

CES/143: 3.2(c) You must not intimidate or attempt to intimidate any person who is likely to be (i) a complainant, (ii) a witness, or (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; 6(a) You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

CES/144: 3(1) You must treat others with respect; 4(a) You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where you have the consent of a person authorised to give it.

CES/145: 2(4)(a) It is a criminal offence, without reasonable excuse, to fail to notify the authority's monitoring officer of a disclosable pecuniary interest as defined in paragraph 13(1) of the Code.

CES/146: 4(b) You must not prevent another person from gaining access to information to which that person is entitled by law; 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute; The Nolan General Principles of Public Life – integrity, accountability, openness, honesty, preserving public confidence

CES/147: 3(2)(b) and (c)i You must not bully any person, intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute; 6(a)(b) You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and must, when using or authorising the use by

others of the resources of your authority act in accordance with your authority's reasonable requirements; ensure that such resources are not used improperly for political purposes (including party political purposes); The Nolan General Principles of Public Life – selflessness, integrity, objectivity, honesty, leadership, public confidence).

Members of the sub-committee considered each alleged breach of the Code referred to in each complaint and considered on the basis of the information given whether, if such matters were proven, they would amount to a breach of the Code. They took into account the information supplied by the complainants, the Subject Members' responses where supplied, the view of the Parish Representative and of the Independent Person, and considered the advice of the Monitoring Officer.

CES/141 (Subject Member A)

RESOLVED

- (i) In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding Councillors, the Local Assessment Sub-Committee decided that on the basis of the information supplied, there was no evidence of a breach of the Code.
- (ii) The Committee recommended that the Parish Council are advised to summarise rules and procedures regarding public speaking at public meetings on all published agendas, in order to ensure clarity.

REASONS

- (i) The Sub-Committee considered that on the basis of the information provided, if proven, the subject Member had not breached paragraphs 3(1), 3(2)(b), 3(2)(c) and 5 of the Code.
- (ii) Whilst the General Principles of Public Life included in Part 5 of the Code underpin the Code of Conduct they do not in themselves create any separate obligations upon Members. Where therefore a subject Member is alleged to have breached the principles this shall not amount to a breach of the Code of Conduct itself.

CES/142; CES/144; CES/145; CES/146 (Subject Member B)

RESOLVED

- (i) In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code

of Conduct complaints regarding Councillors, the Local Assessment Sub-Committee decided that on the basis of the information supplied regarding cases CES/142, CES/144, CES/145 and CES/146 there was no evidence of a breach of the Code.

REASONS

- (i) The Sub-Committee considered that on the basis of the information provided, if proven, the subject Member had not breached paragraphs 3(1), 3(2)(b), 3(2)(c), 5, 4(a), 2(4), and 4(b) of the Code.
- (ii) Whilst the General Principles of Public Life included in Part 5 of the Code underpin the Code of Conduct they do not in themselves create any separate obligations upon Members. Where therefore a subject Member is alleged to have breached the principles in complaints CES/142 and CES/146, this shall not amount to a breach of the Code of Conduct itself.
- (iii) The Local Assessment Sub-Committee considered that CES/144 amounted to a tenuous allegation that was of a trivial nature.
- (iv) The Local Assessment Sub-Committee considered CES/145 regarding the disclosure of pecuniary interests in relation to Section 30 of the Localism Act 2011 and noted that a non-executive Directorship of a company that was not for profit or gain was not subject to this provision. It did not fall within the meaning of a Pecuniary Interest as defined in the Schedule of Regulation 2 of The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. It was also noted that to include on the register of interests an office which was carried on for profit or gain without naming an organisation was considered to be consistent with the requirements of Section 30 of the Localism Act 2011 and the 2012 Regulations and did not amount to a breach of the Code.
- (v) With regards to CES/146, it was noted that complaints regarding the processing of Freedom of Information requests were not within the jurisdiction of the Local Assessment Sub-Committee and there appeared to be inconclusive evidence to show that the Subject Member had set out to prevent another person from gaining access to information.
- (vi) The Committee recommended that no further action be taken other than the recommendation (ii) above in relation to CES/142.

CES/143 (Subject Member C)

RESOLVED

In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding Councillors, the Local Assessment Sub-Committee decided that on the basis of the information supplied there was no evidence of a breach of the Code.

REASON

- (l) The Local Assessment Sub-Committee decided that, on the basis of the information provided, if proven, whilst there could have been a breach of the correct council meeting procedures, there had not been a breach of 3(2)(c) or 6(a) of the Code.

CES/147 (Subject Member D)

RESOLVED

In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding Councillors, the Local Assessment Sub-Committee decided that on the basis of the information supplied there was no evidence of a breach of the Code.

REASON

- (i) The Sub-Committee considered that on the basis of the information provided, if proven, the subject Member had not breached paragraphs 3(2)(b), 3(2)(c)i, 5, 6(a) and 6(b) of the Code.
- (ii) Whilst the General Principles of Public Life included in Part 5 of the Code underpin the Code of Conduct they do not in themselves create any separate obligations upon Members. Where therefore a subject Member is alleged to have breached the principles this shall not amount to a breach of the Code of Conduct itself.

The meeting closed at 11.30 am having commenced at 10.00 am

CHAIRMAN