

Minutes of the meeting of the STANDARDS
HEARINGS PANEL held at 9.30 am on
Monday, 15th May, 2017 at Meeting Room 2,
Civic Centre, Stone Cross, Northallerton

Present

Councillor G W Dadd

Councillor C Patmore

Independent Person

Mr R C Pennington (Independent Person)

Parish Council Representative

Parish Councillor G Lidster

An apology for absence was received from Councillor Mrs C S Cookman

SHP.15 **ELECTION OF CHAIRMAN**

THE DECISION:

That Councillor G W Dadd be elected Chairman for duration of the meeting.

(Councillor G W Dadd in the Chair)

SHP.16 **EXCLUSION OF THE PRESS AND PUBLIC**

THE DECISION:

That under Section 100A(4) of the Local Government Act 1972, the press and public were excluded from the meeting during consideration of the items of business at minute no SHP.17 on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act as the Panel was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

SHP.17 **ALLEGATIONS ABOUT A TOWN COUNCIL MEMBER**

The subject of the decision:

The Deputy Monitoring Officer presented a report in relation to allegations that a Town Councillor ("the Town Councillor") had failed to comply with the provisions of the Town Council's Code of Member Conduct by:

- 1) acting in a way which failed to show respect to other town councillors and employees of the Town Council;
- 2) intimidating or attempting to intimidate other town councillors and employees of the Town Council; and
- 3) conducting himself in a manner which could bring the Town Council or the Town Councillor's office as a Member of the Town Council into disrepute.

The Panel heard from those who had made the allegations and the Town Councillor against whom the allegations had been made.

Alternative options considered:

The Panel considered all of the options outlined in paragraph 3.3 of the Deputy Monitoring Officer's report. Having concluded that the allegations were not upheld and therefore warranted no action to be taken, the Panel did not consider any alternative options to be appropriate in relation to these matters.

The reason for the decision:

The Panel considered:

- the Deputy Monitoring Officer's report;
- the written and oral submissions of the Town Councillor;
- the written and oral submissions of two complainants;
- the written and oral submissions of six witnesses; and
- the Town Council's Code of Conduct.

The Panel reached the following conclusions:

The Panel considered evidence from the first complainant ("Complainant A") alleging that the Town Councillor had acted in a way which failed to show respect to other town councillors and employees of the Town Council during meetings held on 12th September 2016, 24th October 2016, 14th November 2016 and 3rd January 2017.

Complainant A told the Panel that, during all four of those meetings, the Town Councillor had been disruptive, obstructed the business of the meeting and, at times, had disregarded instructions from the chair. However, Complainant A did not provide any specific examples of the alleged breaches of the Code of Conduct.

The Panel heard evidence from a witness ("W") who told the Panel that she had been in attendance at the meeting on 3rd January 2017, during which the Town Councillor had been disruptive, asked lots of questions and challenged the accuracy of paperwork. W told the Panel she thought that the Town Councillor's manner had been quite aggressive and that his conduct made her feel nervous.

The Panel heard evidence from another witness ("X") who told the Panel that, during the meeting on 12th September 2016, the Town Councillor had interrupted business and presented his views in a challenging and intimidating manner, following which two other town councillors left the meeting leading to two items being deferred. X told the Panel that, during the meeting of 24th October 2016, the Town Councillor had objected to considering a late report.

X also referred the Panel to incidents occurring during meetings on 19th September 2016 and 16th January 2017. However, these meetings were not referred to in the allegations and therefore, in the interests of procedural fairness, the Panel gave no weight to that evidence.

The Panel considered an email dated 4th January 2017 sent from the Town Councillor to an employee of the Town Council which, according to the Town Councillor, demonstrated that, during the meeting on 3rd January 2017, he was raising questions to clarify procedures.

The Town Councillor informed the Panel that his conduct was appropriate during all four meetings. He insisted that he asked questions on agenda items and scrutinised policies and procedures seeking relevant information where required as part of his role as a Member of the Town Council. He also maintained that his conduct was in keeping with the level of debate widely expected in council meetings and that the allegations were hindering such debate.

The Town Councillor also provided audio recordings that he had made during the meetings held on 5th September 2016, 12th September 2016, 24th October 2016, and 3rd January 2017 which, according to the Town Councillor, demonstrated that he had not breached the Code of Conduct. Prior to the hearing, Complainant A had been provided with a copy of the recordings and he directed the Panel to consider certain excerpts of the recordings which, according to Complainant A, demonstrated that the Town Councillor had breached the Code of Conduct.

During its deliberation the Panel listened to parts of the recordings including the excerpts that had been identified by Complainant A. The Panel noted that the Town Councillor had raised questions, expressed opposing views and, on one occasion, requested further time to read a document.

The Panel concluded that, although the discussion appeared to become more heated between the Town Councillor and other town councillors, the Panel was not satisfied on the balance of probabilities that the Town Councillor had failed to show respect to other town councillors or employees of the Town Council during the meetings held on 12th September 2016, 24th October 2016, 14th November 2016 and 3rd January 2017.

It followed that, in the Panel's view, the Town Councillor had not breached the Code of Conduct in respect of the allegations made by Complainant A.

The Panel considered evidence from the second complainant ("Complainant B") that the Town Councillor had:

- (i) intimidated or attempted to intimidate other town councillors and employees of the Town Council during meetings held on 5th September 2016 and 3rd January 2017;
- (ii) acted in a way which failed to show respect to other town councillors and employees of the Town Council during meetings held on 5th September 2016, 12th September 2016 and 3rd January 2017; and
- (iii) acted in a manner which could bring the Town Council or the Town Councillor's office as a Member of the Town Council into disrepute during and after a meeting held on the 3rd January 2017.

Complainant B told the Panel that, during the meeting held on 5th September 2016, the Town Councillor had refused to sit in the public area when requested. The Panel heard evidence from X who also told the Panel that, during the meeting on 5th September

2016, the Town Councillor had refused to sit in the public area when requested to by the chair of the committee. X told the Panel that, prior to 5th September 2016, it was standard procedure for non-committee members to sit at the committee members' table during meetings.

The Town Councillor also told the Panel that it was standard procedure for non-committee members to participate in debate but to have no voting rights. The Panel noted that the information provided by X in this regard was in keeping with the Town Councillor's evidence. The Town Councillor told the Panel that, prior to the meeting held on 5th September 2016, there had been no discussion or resolution to change standard meeting procedures and that he was merely proceeding with what he believed was usual protocol by remaining seated at the committee members' table.

The Panel concluded that during a meeting on 5th September 2016 the Town Councillor had refused to move to the public area of the meeting when asked by the chair. However, the request was without prior notice and against standard procedure. The Panel was therefore not satisfied that the Town Councillor had failed to show respect to other town councillors or employees at this time.

Complainant B told the Panel that, during the same meeting, the Town Councillor had refused to turn off his recording equipment when the meeting moved into private session.

The Town Councillor told the Panel that he had not been asked to turn off his recording equipment during the meeting but the issue of recording meetings in private session was debated.

The Panel noted from the recordings that, during the meeting on 5th September 2016, the Town Councillor asked for confirmation on whether recording private sessions was permitted in certain circumstances and it was resolved that further research would be undertaken and reported back at a future meeting.

The Panel was not satisfied that there was any corroborative evidence to indicate that the Town Councillor had refused to turn off his recording equipment during the meeting or, indeed, that he had been asked to cease. The Panel was therefore not satisfied that the Town Councillor had failed to show respect to other town councillors or employees at this time.

Complainant B told the Panel that, during the meeting held on 12th September 2016, the Town Councillor had criticised "everything that was, and had to be, done". The Town Councillor told the Panel that, during the meeting on 12th September 2016, he had asked questions on agenda items and asked for copies of relevant information or documents.

The Panel noted from the recordings that, during the meeting held on 12th September 2016, the Town Councillor had asked questions about recording private sessions as part of a debate on an agenda item. However, the Panel was not satisfied on the balance of probabilities that the Town Councillor's conduct amounted to a failure to show respect.

Complainant B told the Panel that, during the meeting held on 12th September 2016, the Town Councillor had refused to stop recording after the meeting had moved into private session. The Town Councillor told the Panel that he had not been asked to stop recording during the meeting.

The Panel noted from the recordings that there was no evidence that the Town Councillor had been asked to turn off his recording equipment. The Panel was therefore not satisfied that the Town Councillor had failed to show respect in this regard.

Complainant B told the Panel that, during a meeting on 3rd January 2017, the Town Councillor attempted to manipulate the agenda to discuss matters which were not itemised. The Panel heard evidence from W, who also told the Panel that, during the same meeting, the Town Councillor had interrupted business and tried to introduce new items onto the agenda.

The Town Councillor told the Panel that he had not tried to introduce new items onto the agenda but he had attempted to debate two existing items.

The Panel concluded that during a meeting on 3rd January 2017 the Town Councillor had raised questions regarding the contents of minutes during an agenda item. Having considered the recording, the Panel concluded that there was confusion between the chair of the meeting and the Town Councillor about whether the point raised by the Town Councillor had been resolved. The Panel was not satisfied on the balance of probabilities that the Town Councillor's conduct fell below the standard of conduct generally expected of Council Members in such meetings. The Panel was therefore not satisfied that the Town Councillor had failed to show respect to other town councillors.

Complainant B told the Panel that, during the meeting held on 3rd January 2017, the Town Councillor made challenges in an aggressive and intimidating manner.

The Panel noted from the recordings that, during the meeting, the Town Councillor had raised questions in relation to an officer's report. The Panel concluded that the discussion had become heated but did not find the Town Councillor's conduct to be aggressive or intimidatory. Again, the Panel was not satisfied on the balance of probabilities that the Town Councillor's conduct fell below the standard of conduct generally expected of Council Members in such meetings.

W told the Panel that the Town Councillor's conduct was inappropriate and that it made her feel uncomfortable. W also informed the Panel that she had made a complaint about the Town Councillor's conduct with support from her union.

The Panel considered an email dated 4th January 2017 sent by the Town Councillor to W which, according to the Town Councillor, demonstrated that his correspondence was not threatening, disrespectful or intimidatory, nor was it harassment.

The Panel noted that, during the meeting, it had not been provided with any further written or oral evidence in respect of W's complaint. The Panel also noted that W's complaint had not been referred to the District Council as a Code of Conduct matter for the Panel to consider.

The Panel noted that the Town Councillor had asked W questions both orally and in writing about a committee report. The Panel concluded that the email dated 4th January 2017 contained a number of questions directed to W. However, the Panel was satisfied that the content of the email was not disrespectful or intimidatory.

Complainant B told the Panel that, during the meeting on 3rd January 2017, the Town Councillor disregarded a resolution to progress with the meeting.

The Panel heard evidence from another witness ("Y") in respect of the meeting on 3rd January 2017. Y told the Panel that it was his opinion that the Town Councillor asked questions in an attempt to disrupt the meeting and to "get everyone's backs up". Y told the Panel that the Town Councillor repeatedly went over the same things.

The Panel heard evidence from another witness ("Z") who told the Panel that, during the same meeting, the Town Councillor had continued to debate the contents of the minutes from the previous meeting even though it had been resolved to refer the matter for discussion at a future meeting of the Town Council.

The Panel noted from the recordings that, during the meeting, there had been a resolution for the meeting to progress. The Panel also noted that, part way through the meeting, one or more councillors left causing the meeting to become inquorate and forced to close. The Panel concluded that the Town Councillor remained present throughout and did not prevent the meeting from progressing.

Complainant B alleged that the Town Councillor would not agree to start a meeting three minutes early and that this was disrespectful. The Panel was not satisfied on the balance of probabilities that the Town Councillor's desire to adhere to administrative procedure was a failure to show respect to other town councillors.

Taking account of the above, the Panel was not satisfied that the Town Councillor had acted in a way which failed to show respect to other town councillors and employees of the Town Council. Similarly, the Panel was not satisfied that the Town Councillor had intimidated or attempted to intimidate other town councillors and employees of the Town Council. Furthermore, the Panel was not satisfied that the Town Councillor had conducted himself in a manner which could bring the Town Council or the Town Councillor's office as a Member of the Town Council into disrepute.

It followed that, in the Panel's view, the Town Councillor had not breached the Code of Conduct in respect of the allegations made by Complainant B.

THE DECISION:

The Panel recommends to the Town Council that the complaint not be upheld in relation to the allegations that the Town Councillor:

- 1) acted in a way which failed to show respect to other town councillors and employees of the Town Council;
- 2) intimidated or attempted to intimidate other town councillors and employees of the Town Council; and
- 3) conducted himself in a manner which could bring the Town Council or the Town Councillor's office as a Member of the Town Council into disrepute.

The Panel recommends that the Town Council be notified of the Panel's findings.

The meeting closed at 12.40 pm

Chairman of the Panel