

Consideration of Code of Conduct complaint

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Summary

1. The Standards Hearing Panel is required to consider a complaint under the Burnham and Highbridge Town Council Code of Conduct against a member of Burnham and Highbridge Town Council.

Recommendation

2. It is recommended that the Hearing Panel consider the information attached to this report and presented at the hearing and determine whether or not there has been a breach of the Burnham and Highbridge Town Council Code of Conduct by the Subject Member, and, if appropriate, determine what sanction should be imposed.
3. In order to assist the Panel, the following information is attached to this report:
 - Council's Arrangements for Dealing with Code of Conduct Complaints including Hearing procedure
 - Investigator's report
 - Schedule of Evidence

Background

4. A complaint was received by Sedgemoor District Council from a complainant (the Complainant) against a member of Burnham and Highbridge Town Council (the Subject Member) on 1st August 2022. The Complainant alleged that the Subject Member had failed to treat her with respect and that the Subject Member had bullied and harassed her.

5. The Subject Member received papers in relation to the complaint on 4 August 2022 and responded to the complaint on 23 August 2022.
6. In consultation with the Independent Person, the Monitoring Officer determined to refer the complaint to investigation on 30 August 2022. The complaint was referred to independent investigator Gill Sinclair of Bethan Evans Governance, Training and Consultancy Ltd on 30 September 2022 (the Investigating Officer).
7. The Investigating Officer undertook an investigation and produced a final report on 2 February 2023. The Investigator Officer concluded that in relation to the complaints made by the Complainant as regards conversations and comments made to her by the Subject Member on the 23rd June 2022 and in respect of comments made by the Subject Member on other occasions, specifically at a Town Council training event, that on the balance of probabilities, the Subject Member DID BREACH the Member Obligations of the Town Council Code of Conduct as follows:

1) They shall behave in such a way that a reasonable person would regard as respectful.

2) They shall not act in a way which a reasonable person would regard as bullying or intimidatory.

There is a degree of agreement as to the content of some of the conversations that took place, though in this regard there is some dispute as to the extent of the breaches concluded by the Investigating Officer to have occurred as a result. There remains dispute about other alleged conversations.

8. In respect of the allegation that the Subject Member breached the obligation not to seek to improperly confer an advantage or disadvantage on any person, the Investigating Officer found that on the balance of probabilities, the alleged conversation did take place but that the element of the conversation relating to the availability of other funding DID NOT BREACH the Code of Conduct.
9. Following receipt of the final report, the Monitoring Officer, in line with the Council's Arrangements for dealing with Complaints, considered the report and was satisfied the investigation had been conducted properly. In relation to the finding of breach, the Monitoring Officer concluded that there was evidence of a failure to comply with the Code of Conduct.

10. Following contact with both parties and consultation with the Independent Person, the Monitoring Officer resolved to refer the matter for hearing on 3 March 2023.

Other options considered

11. Having been referred for a hearing the options available to the Hearing Panel are to determine whether there has or has not been a breach of the Code of Conduct.

Links to Council Vision, Business Plan and Medium-Term Financial Strategy

12. The Council has a statutory duty to determine the complaint

Financial and Risk Implications

13. There are no financial or risk implications arising directly from this report.

Legal Implications

14. Code of Conduct complaints must be dealt with in accordance with the Council's arrangements under s.28 (6) Localism Act 2011.

HR Implications

15. None.

Other Implications:

16. None.

Equalities Implications

17. When exercising its functions, the Council must consider the three aims of the Public Sector Equality Duty. These are:
 - Eliminate discrimination, harassment and victimisation;
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

18. The protected characteristics are:

- Age;
- Disability;
- Gender reassignment;
- Marriage and civil partnership;
- Pregnancy and maternity;
- Race;
- Religion and Belief;
- Sex;
- Sexual orientation;

Community Safety Implications

19. None.

Climate Change and Sustainability Implications

20. There are no climate change and sustainability implications arising from this report.

Health and Safety Implications

21. There are no health and safety implications directly arising from this report

Health and Wellbeing Implications

22. There are no health and wellbeing implications directly arising from this report

Social Value

23. There are no health and wellbeing implications directly arising from this report.

Scrutiny comments / recommendations:

24. As this report relates to a statutory function of the Council, which is the responsibility of the Hearings Panel there are no scrutiny comments or recommendations.

Background Papers

25 None

Appendices

Appendix A - Investigating Officers Report

Appendix B - Index of Documents

Appendix C - Investigations and Hearings Procedures