

Summary Sheet

Standards and Ethics Committee Report

Standards and Ethics Committee Meeting - 28th September, 2017

Title

Outcome of Standards and Ethics Sub Committee Hearing re Alleged Breach of the Code of Conduct

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

N/A

Report Author(s)

Stuart Fletcher, Service Manager (Commercial and Property), Legal Services,
Riverside House, Main Street, Rotherham S60 1AE
Tel : 01709 823523

Dermot Pearson, Assistant Director, Legal Services, Riverside House, Main Street,
Rotherham S60 1AE
Tel : 01709 255768

Ward(s) Affected

All

Executive Summary

This report sets out the outcome of a Standards and Ethics Sub Committee Hearing which took place on 26th June 2017 in relation to an alleged breach of the Code of Conduct for Members by Brian Lewis a Town Councillor at Dinnington St. John's Town Council.

Recommendations

It is recommended that the Standards Committee:

- (i) Note the sanctions imposed by the Sub-Committee at the hearing
- (ii) Consider any issues arising out of this matter

List of Appendices Included

None

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Title:

Outcome of Standards and Ethics Sub Committee Hearing re Alleged Breach of the Code of Conduct

1. Recommendations

It is recommended that the Standards and Ethics Committee:

- (i) Note the sanctions imposed by the Sub-Committee at the hearing
- (ii) Consider any issues arising out of this matter

2. Background

- 2.1 The Sub-Committee hearing took place on the 26th June 2017. Cllr. Lewis attended the Hearing but upon seeing those present refused to participate in the hearing and left the meeting room, indicating that he could have brought his own witnesses if he had known that the complainants would be attending. The Democratic Services Officer spoke to Cllr. Lewis outside the meeting room and reported back to the Sub-Committee that she had asked Cllr. Lewis if he wished to return to the meeting room or for the hearing to be deferred and that he had said he did not wish the hearing to be deferred and stated that the Sub-Committee could do as it wished.
- 2.2 The Democratic Services Officer also reported to the Sub-Committee that the correspondence sent to the Cllr. Lewis prior to the Hearing included the names of the Sub-Committee members, enclosed a copy of the investigation report and also enclosed a copy of the hearing procedure which included reference to the presence of witnesses.
- 2.3 The Panel considered whether the Hearing should proceed in the Cllr. Lewis's absence, and having regard to the views of Cllr. Lewis as reported to them and the correspondence sent to him prior to the Hearing decided that they should do so.

The Complaint

- 2.4 The Presenting Officer presented his investigation report to the Sub-Committee.
- 2.5 The complaint can be summarised as relating to Cllr. Lewis's use of the racial slur "XXXX" when asking a question of the South Yorkshire Police and Crime Commissioner at a meeting of the Town Council held on 13 June 2016. The audio recording of the meeting had previously been disclosed to the Cllr. Lewis and was played to the Sub-Committee. The words in question were:

44:20 on the recording:

Cllr Lewis: "One case that happened to She came in to see her workmates to the bus station and there were a foreigner, a XXXX"

Chairman: "Don't do that, don't call them that"

Cllr Lewis: "Well he were one"

Chairman: "Well apologise"

Cllr Lewis: "and he tried to get her to go on a bus and kept touching her..."

1:00:20 on the recording:

Cllr Lewis: "I'd just like to apologise."

Chairman: "Yeah that's OK thanks Councillor."

- 2.6 On 28 June 2016 the Chair of the Town Council wrote to Cllr. Lewis about his comments at the meeting and met with him on 29 June 2016 to discuss his conduct.
- 2.7 Following receipt of the formal complaints, the views of Cllr. Lewis and of Mr P Beevers (Independent Person) were sought. Further to the recommendation of the Independent Person the Deputy Monitoring Officer met with Councillor Lewis together an Equalities officer on 3rd March 2017. It was not possible for the matter to be resolved informally.
- 2.8 The Panel also heard evidence from the complainant a member of the public who attended the Town Council meeting on 13 June 2016. The Complainant re-iterated the written complaint she had made.

Cllr. Lewis's Response

- 2.9 In the absence of the Cllr. Lewis the Sub-Committee considered his written representations in response to the complaint and his further written representations in advance of the Hearing.
- 2.10 In his written representations the Cllr. Lewis had made the following points:
- The complaint had already been dealt with by the Town Council
 - He had apologised for what he had said
 - The Complainant had a vendetta against him and delayed in bringing her complaint.
 - The complaint was simply the complainant's opinion
 - The Town Council met to discuss his conduct at the meeting on 13th June 2017 and no further action was taken

The Dinnington St John's Town Council Code of Conduct for Elected Members and Co-opted Members

2.11 The Code of Conduct includes the following requirements and prohibitions:

3. (1) *You must treat others with respect.*

(2) *You must not:-*

(a) do anything which may cause the Council to breach any of the equality duties;

and

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

And the Code of Conduct includes the following:

Scope

2. (1) *Except when you are acting as a representative of the Council when sub-paragraph (2) applies, you must comply with this Code whenever you –*

(a) conduct the business of the Council (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of the Council.

The Findings of the Sub-Committee

2.12 The Sub-Committee considered whether the Code of Conduct applied to Cllr. Lewis's conduct at the Town Council meeting on 13 June 2016 and concluded that Cllr. Lewis was conducting the business of the Town Council when he made his comments and that he was subject to the Code of Conduct when he made them.

2.13 The Sub-Committee considered whether Cllr. Lewis had used the word "XXXX" at the meeting of the Town Council on 13 June 2016. The Sub-Committee had regard to the audio recording of the meeting in which Cllr. Lewis used the word "XXXX", to the lack of any denial by Cllr. Lewis and concluded that he had done so.

2.14 The Sub-Committee had regard to the views of the Independent Person who said that, taking into account the content of the recording, Cllr. Lewis was in breach of the Town Council's Code of Conduct.

- 2.15 The Sub-Committee considered whether by making his comments Cllr. Lewis had breached the requirements of the Code of Conduct. Having regard to the unacceptable racist nature of the word "XXXX" the Sub-Committee found that Cllr. Lewis had breached the requirements of the Code of Conduct relating to treating others with respect, not doing anything which may cause the Town Council to breach any of the equality duties and concluded that his conduct could reasonably be regarded as bringing both his own office and the Town Council into disrepute.

The Sub-Committee's Decision

- 2.16 In the light of its findings the Sub-Committee resolved that:

- (1) This decision be reported to Dinnington St. John's Town Council
- (2) The decision that Councillor Lewis had breached the Dinnington St. John's Town Council Code of Conduct be published.
- (3) A recommendation is made to Town Councillor Lewis that he formally apologise at the next meeting of Dinnington St. John's Town Council and this be minuted accordingly.
- (4) A recommendation is made to the Clerk of Dinnington St. John's Town Council that the apology, as recommended for Town Councillor Lewis, be formally recorded at the next Town Council meeting.
- (5) A recommendation is made that Town Councillor Lewis be invited and encouraged to attend Equalities training.

3. Key Issues

- 3.1 The key issues are set out above.

4. Options considered and recommended proposal

- 4.1 All relevant options in respect of available sanctions were considered by the Sub-Committee.

5. Consultation

- 5.1 The Standards and Ethics Committee Independent Persons was consulted in respect of this complaint and was in attendance at the hearing.

6. Timetable and Accountability for Implementing this Decision

- 6.1 The decision has been reported to the Dinnington Town Council. Further Cllr Lewis has been made aware of the decision and the recommendations as they apply to him.

7. Financial and Procurement Implications

7.1 The officer time in dealing with this complaint is met within existing Legal Services resources.

8. Legal Implications

8.1 The Council and the Standards and Ethics Committee have a statutory duty to maintain and promote ethical standards. Pursuant to the Localism Act 2011, the Council is required to adopt an appropriate Code of Conduct and arrangements for the investigation of allegations of breach of the Code of Conduct.

9. Human Resources Implications

9.1 None

10. Implications for Children and Young People and Vulnerable Adults

10.1 None

11. Equalities and Human Rights Implications

11.1 None

12. Implications for Partners and Other Directorates

12.1 None

13. Risks and Mitigation

13.1 None

14. Accountable Officer(s)

Dermot Pearson, Assistant Director, Legal Services