

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

STANDARDS AND ETHICS COMMITTEE

RECORD OF THE DECISION OF THE STANDARDS AND ETHICS SUB-COMMITTEE MEETING HELD ON 3rd MAY 2019

SUBJECT MEMBER Town Councillor B Spillsbury

COMPLAINANTS A

**WITNESSES FOR THE
COMPLAINANT** B

THE COMPLAINTS SUB-COMMITTEE

Councillor McNeely (Rotherham MBC) (in the Chair)
Councillor Simpson (Rotherham MBC)
Councillor Swann (Woodsetts Parish Council)
Ms A Bingham (Independent Co-opted Member)
Ms J Porter (Independent Co-opted Member)

INDEPENDENT PERSON

Mr Phil Beavers

ROTHERHAM MBC OFFICERS

Stuart Fletcher (Deputy Monitoring Officer)
Sumera Shabir (Investigating Officer)
Debbie Pons (Senior Democratic Services Officer)

The Complaint

At a meeting of the Rotherham Standards and Ethics Sub-Committee held on 3rd May, 2019, consideration was given to complaints against Town Councillor W. Spillsbury (the "Subject Member"), a Town Councillor at Maltby Town Council.

The complaint related to:-

- A comment made by the Subject Member to A at the offices of Maltby Town Council and then a further comment to B to the effect that he should say to A "I am the local rapist" to which B refused.

The Investigating Officer presented the report of the investigation into whether there had been a breach of the Members' Code of Conduct and which fell within the remit of Rotherham Borough Council's Standards and Ethics Committee.

The Investigating Officer took the Sub-Committee through the complaint forms and the written responses from the Subject Member. The Subject Member had stated that he had made a “jocular remark” to A and also made a comment to B. He gave an explanation in relation to the complaint. The Subject Member did not apologise for his conduct.

The Investigating Officer referred the Sub-Committee to the following paragraphs of Maltby Town Council’s Code of Conduct that would be relevant in this case:-

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

General Obligations

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

Evidence of the Complainant

The Complainant referred to the details of their complaint as listed on Page 8 of the agenda pack, that the Subject Member made inappropriate comments to A, and then made inappropriate comments to a contractor for the Council.

When questioned by the Subject Member about the Complainant laughing and joking with him rather than focusing on their work, the Complainant confirmed they were photocopying documentation provided by the Subject Member and felt compelled to laugh at his comments. The Complainant was irritated by what he had said and felt in a vulnerable position. The Complainant found the comments completely unprofessional and the whole situation uncomfortable. The Complainant had taken steps to avoid the Subject Member’s company since then and action had been taken by the Town Council to prevent contact.

When the Chair asked what outcome the Complainant wanted from the hearing, the Complainant confirmed they would like an apology for the inappropriate comments that were made.

The Subject Member was asked if he had any questions for the Complainant and he passed comment on:-

- The lack of distress of the Complainant.
- His thirty-four years' service in the Royal Navy.
- His jocular and chatty manner.
- Disputed the term "rapist" claiming to have used the word "molester".

The witness for the Complainant then gave evidence.

B confirmed he had arrived at the offices of Maltby Town Council and having exited his car walked past the Subject Member who was also getting into his vehicle. The two exchanged pleasantries before the Subject Member stated that B should go to the office and say that he was "the local rapist". B stated he would not say those words and entered the building. B stated to another Parish Councillor what had been said. He was advised to tell the Complainant and Chair, which he did. This then led to a meeting involving the Chair and the Clerk to explain what had happened. B explained he was shocked at the comment made by the Subject Member.

Evidence of the Subject Member

The Investigating Officer referred to the response provided by the Subject Member appended to the report and invited the Subject Member to present his case.

The Subject Member explained the comments were not in any way aggressive and that the Complainant in no way appear distressed, and stated there should not have been a meeting about him by the Town Council without him having been invited to attend.

The Subject Member acknowledged he often told what he described as ribald jokes and stated he was encouraged by other Parish Councillors to do so. He stated he had never used the word "rapist", but confirmed he had used the word "molester", which he claimed was a joke and said in jest. He believed there was a clear difference in the two words and stated it was said to a man not a woman. He also stated there had been no public present when the comments were made.

The Subject Member further described his "jocular" character and role as a Suicide Counsellor and how he raised awareness about drugs with school children as a volunteer. He stated he undertook charity work and also maintained his links with the Admiralty.

The Subject Member also stated he had received a letter from the Clerk which indicated he was not allowed to enter the Edward Dunn Memorial Hall other than for Council Meetings.

Questions were asked by the Sub-Committee to the Subject Member relating to the following:

- How the Subject Member would feel if comments like these were made to his family.
- His use of language and joke telling and whether the Subject Member felt the phraseology was degrading.

- His apparent lack of respect for the Complainant, which the Subject Member confirmed was correct.

Summary

The Investigating Officer referred back to the complaint as set out in the documentation.

The Investigating Officer, the Subject Member, the Complainant and the witness left the room to allow the Panel, the Independent Person and the Monitoring Officer to consider the matters before them.

The Findings of the Sub-Committee

The Panel considered the evidence from both parties and the documents appended to the Investigating Officers' report.

The Sub-Committee considered, in consultation with the Independent Person, whether the Code of Conduct applied to the Subject Member's conduct at the offices of Maltby Town Council on 24th October 2018.

They noted that the comments were not made in public, but were made in the Subject Member's capacity as a Councillor.

The Sub-Committee then considered, in consultation with the Independent Person, whether by making the comments the Subject Member had failed to treat others with respect. They considered the comments made by the Subject Member that:-

- "I am the local rapist".

and found that those comments were inappropriate.

The Sub-Committee found on balance that that the Subject Member had breached the Code of Conduct in making those comments in that he had failed to treat others with respect, namely the Complainant.

The Sub-Committee then considered, in consultation with the Independent Person, whether by making the comments the Subject Member had conducted himself in a manner which could reasonably be regarded as bringing his office of Parish Councillor or the Town Council into disrepute. They found on balance that by making the inappropriate comments the Subject Member had done so, both in respect of his office as Parish Councillor and the Town Council.

Given their findings that the Subject Member had breached the Code of Conduct the Sub-Committee considered what sanctions, if any, to impose upon him. They noted that the Subject Member had indicated he was on various sub-committees for the Town Council.

The Investigating Officer and the Subject Member were asked to return and were advised of the decision. The Complainant and the witness were unable to wait for the decision and were happy to receive this in writing.

Resolved:- That, in the light of their findings, the complaint be upheld and the following sanctions should be applied to the Subject Member:

- (1) That the Maltby Town Council be advised of the outcome and findings of the Sub-Committee.
- (2) The formal Decision Notice setting out the findings of the Sub-Committee shall be published on the agenda of the next meeting of the Standards and Ethics Committee.
- (3) That a recommendation be made to Maltby Town Council that the Subject Member be censured.
- (4) That a recommendation be made to Maltby Town Council that the Subject Member be removed from the Committees or Sub-Committees of the Town Council upon which he sits.
- (5) The Monitoring Officer shall be instructed to arrange appropriate training for the Subject Member.
- (6) That a recommendation be made to the Maltby Town Council that the Subject Member be removed from all outside appointments to which he has been appointed or nominated by the Town Council.
- (7) That a recommendation be made to the Maltby Town Council that the Subject Member be asked to return all equipment belonging to the Town Council and that the Subject member be excluded from the Town Council premises except for attending Council Meetings.
- (8) The Complainant and the witness be commended for providing evidence and their attendance at the Sub-Committee hearing.

Signed:  [Chair of Sub-Committee]
Dated: 24/05/19