

Coventry City Council
Minutes of the Meeting of Ethics Committee held at 9.30 am on Wednesday, 20
November 2019

Present:

Members: Councillor S Walsh (Chair)

Councillor R Bailey (substitute for Councillor A Andrews)
Councillor P Hetherton
Councillor J Mutton
Councillor D Welsh

Independent Persons: S Atkinson
A Barton
R Wills (Chair for Minute 19 below)
P Wiseman

Other Members: Councillor G Williams

Employees (by Directorate):

Place: S Bennett, C Bradford, J Newman, M Yardley

Others Present: D Kitson, Independent Investigator, Bevan Brittan

Apologies: Councillor A Andrews

Public Business

17. Declarations of Interest

There were no declarations of interest.

18. Appointment of Independent Chair

RESOLVED that Ruth Wills, Independent Person, be appointed as the Chair for consideration of the matter referred to in Minute 19 below relating to “Hearing into Complaint Under Code of Conduct”.

19. Hearing into Complaint Under Code of Conduct

The Ethics Committee considered a report of the Director of Finance and Corporate Services which detailed a complaint made against Councillor G Williams (the “Subject Member”). The complainant alleged that the Subject Member had breached the Code of Conduct for Elected and Co-opted Members.

A formal complaint was made on 19 February, 2019 that the Subject Member had posted inappropriate comments on social media which amounted to accusing

Planning staff of corruption by deliberately taking the Planning Portal down and engaging in, and encouraging, a situation where it was suggested that Planning staff should be assaulted. The Complainant alleged that this behaviour breached paragraphs 3(i), (j) and (k) of the Code of Conduct for Elected and Co-opted Members and the Member/Officer Protocol.

A Stage One review of the complaint concluded that an Independent Investigator should be appointed to investigate the complaint. An Independent Investigator was duly appointed to carry out the investigation and he concluded that the Subject Member had breached the three paragraphs of the Code of Conduct as outlined above.

The Committee considered the following:-

- a) Presentation of the Investigation report
- b) Presentation of the Subject Member's response to the Investigation report
- c) Summing up from both the Investigating Officer and the Subject Member
- d) Views and submissions of the Independent Person (Peter Wiseman)

The Committee then determined the complaint and concluded that there had been a breach of paragraphs 3 (i), (j) and (k).

Before determining what sanctions, if any, should be applied, the Subject Member and the Independent Person were invited to make representations as to whether or not any sanctions should be applied and, if so, what form they should take. The Committee noted that the application of any sanction should be reasonable and proportionate to the Subject Member's behaviour.

RESOLVED that the conclusion of the Committee be as set out in the Decision Notice attached as Appendix1 to these Minutes.

20. **Ruth Wills**

On behalf of the Committee, the Chair, Councillor S Walsh, thanked Ruth Wills for chairing the meeting for the item of business referred to in Minute 19 above.

21. **Any Other Items of Urgent Public Business**

There were no other items of urgent public business.

(Meeting closed at 12.45pm)

Twitter user, Cllr Williams had engaged and encouraged a situation where someone was suggesting that employees should be assaulted.

- 2.3 The complaint was referred to Mr David Kitson, a Senior Associate with Bevan Brittan solicitors for investigation.
- 2.4 Mr Kitson concluded that Cllr Williams had been acting in his capacity as a Councillor when the incident occurred. He also concluded that he had breached three paragraphs of the Code of Conduct namely:
- (a) Paragraph 3(i): value my colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good government;
 - (b) Paragraph 3(j): always treat people with respect; and
 - (c) Paragraph 3(k): provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council
- 2.5 In particular Mr Kitson concluded, on balance, that:
- (a) In his tweet, Cllr Williams was implying that the Council and more particularly the Planning Department may have purposefully and improperly taken down the Planning Portal to stop objections being made to the Keresley planning application. Even if the Councillor was doing so in a tongue in cheek manner, this would be unlikely to be evident objectively. In any case the Councillor's own belief that residents within the Keresley area had a particular mistrust and dislike of the Council and the planning process should have made him think carefully about the tweet.
 - (b) the Councillor himself did not think that the spoof account's reply or his subsequent comment in relation to violence against women would cause distress or undermine Officers. It was however how the comments sit in the context of increasing levels of abuse, intimidation and violence towards not only Officers but also elected members and other public figures, that was of concern.
 - (c) the Councillor's Twitter post had the potential to undermine the Planning Department and cause distress to Officers. Further, although the subsequent discussion that took place between the Councillor and the spoof account was most likely tongue in cheek, it was nonetheless inappropriate in the circumstances, particularly so on account of the contentious nature of the planning application in question, as well as the wider issues with the increasing intimidation of those in public life.
- 2.6 Mr Kitson did not accept Cllr Williams' view that, with regard to the rhetorical question in his tweet, he was not suggesting what residents should think and was just being provocative.

- 2.7 Cllr Williams advised Mr Kitson that the spoof account's reply was tongue in cheek and in response to the prevailing news at that time. He also added that if he had not already known of the spoof account and its usual activity, he would have ignored the reply, but because he knew that the spoof account enjoyed engaging in banter, he did reply. However, Mr Kitson took the view that this exchange was published to the world on Twitter and regardless of what the Councillor thought of it, its meaning could have been taken out of context and misconstrued by others.
- 2.8 Mr Kitson did not accept Cllr Williams' assertion that the complaint was motivated by the fact that the Complainant is in a relationship with the Head of Planning and that the complaint was "hot-headed" and "outrageous". Looking at the circumstances objectively, Mr Kitson thought that there was justification for the complaint being made, and in consequence the relationship between the Complainant and the Head of Planning was not relevant.

E Hearing

3.1 The Ethics Committee consisted of:

- Cllr Roger Bailey
- Cllr Patricia Hetherington
- Cllr John Mutton
- Cllr Seamus Walsh
- Cllr David Welsh

The hearing was chaired by Ruth Wills, one of the Council's Independent Persons. Ms Wills took no part in the Committee's discussions or the decisions that it reached with regard to whether there had been a breach or breaches of the Code or in its discussions or decision concerning the imposition of sanctions.

3.2 Cllr Williams attended the hearing.

3.3 Mr David Kitson, the Investigating Officer (IO), attended the hearing. Mr Kitson outlined his investigation and took the Committee through his report. He called the Complainant to give evidence. He and the Complainant answered questions from both the Committee and from Cllr Williams.

3.4 Cllr Williams presented his case. He said that he had made the tweet because he was concerned about the length of time the planning portal was down. It was an attempt to get the message across to his ward residents that they had to get comments on the application to the Council by 4 February. He produced evidence via an FOI request which showed that the planning portal had been down on 477 occasions between July and October 2019. In tweeting, he had also hoped to get the planners to sort out the problems with the portal.

- 3.5 Cllr Williams said that if the Complainant had come to see him personally about the tweet and explained what he thought the issue was, Cllr Williams would have apologised to the Head of Planning and deleted the tweet. As it was, he had received what he considered to be an inappropriate email from him. He felt that he was an easy target for bullying because he was an “independent councillor”.
- 3.6 If he had thought there was any genuine threat in the response that he received from the spoof account, he would not have engaged with it. In his view the complaint and everything that followed from it had been counterproductive. If the Complainant and the Head of Planning had dealt with the problems with the portal, this would not have happened.

F Consultation with Independent Person

- 4.1 The Independent Person, Mr Peter Wiseman, OBE, LLB gave his opinion on the complaint to the Committee. This can be summarised as follows:
- 4.2 Mr Wiseman was approaching the case with no preconceptions about any previous history, but it was clear that things were going wrong with the planning portal. Cllr Williams appreciated this and so that informed his approach. It is recognised that planning can be a very emotive subject with different groups taking up different and sometimes contradictory positions. For example, local residents may have a particular view on a planning application but that might be at odds with the Council which might take a city-wide approach.

A Councillor has a very hard tightrope to walk and needs to exercise a measure of independent judgment and not just be the representative of residents' views. It is a question of balance. If a significant portion of the population doesn't have trust in the process, local government falls apart. Councillors should not shy away from asking questions though.

Mr Wiseman reminded the Committee of the comments in the Heesom case (page 43 of the bundle):

“...Civil servants are, of course, open to criticism, including public criticism; but they are involved in assisting with and implementing policies, not (like politicians) making them. As well as in their own private interests in terms of honour, dignity and reputation..., it is in the public interest that they are not subject to unwarranted comments that disenable them from performing their public duties and undermine public confidence in the administration. Therefore, in the public interest, it is a legitimate aim of the State to protect public servants from unwarranted comments that have, or may have, that adverse effect on good administration...”

In his view, a reasonable person reading Cllr Williams' tweet would have a question raised in their mind about the good faith of officers dealing with planning applications and the planning portal. The “rhetorical

question” cannot be treated as a throwaway remark. Cllr Williams had said that he was trying to be provocative but someone else might read this and wonder if something was going wrong with the system. It would raise questions about whether there is something dodgy in the planning department. Councillors are entitled to raise questions about such things, but in the right manner.

A person reading the comments about the Head of Planning would not know that this was from a spoof account and might well believe the comment to be genuine. There are many people who engage with social media who take threats seriously and might act upon them. If Cllr Williams is going to engage in social media then it is his responsibility to be absolutely sure that what he says cannot be misinterpreted and he has a positive obligation to do this and to have a duty of care towards officers.

Cllr Williams can still continue with his work for residents, but he needs to recognise the obligations on him under the Nolan Principles since there is a real potential of serious damage being caused if he does not.

F Findings

5.1 After considering the submissions of the parties to the hearing and the views of the Independent Person, the Committee reached the following decision(s):

That Cllr Williams had breached paragraphs 3(i), 3(j) and 3(k) of the Code of Conduct for Elected and Co-opted Members in that he had failed to:

- (a) value...colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect.... that is essential to good government
- (b) always treat people with respect
- (c) provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council

G Reasons

6. **The Committee’s reasons for reaching its decision are as follows:**

6.1 The Committee took the view that the two issues in this case were:
(a) what Cllr Williams had meant by his rhetorical question in his tweet and how it might be interpreted; and
(b) whether the subsequent exchange with the spoof account about the Head of Planning encouraged a situation in which someone was suggesting that Council employees be assaulted.
and whether either, or both, amounted to a breach of the Code of Conduct

The rhetorical question

- 6.2 The Committee did not accept Cllr Williams' argument that his purpose in posting the tweet was to draw his ward residents' attention to the fact that the planning portal was down and that they needed to get any comments on the planning application in before the deadline. He could have done this without including the sentence "is this an attempt to stop people from objecting??"
- 6.3 The inclusion of the sentence was, by his own admission, intended to be provocative and in the Committee's view it **was** provocative. Given the context of the planning application, it was not unreasonable for readers to infer that it was the Council, and possibly the planning department who had deliberately taken the portal down. In posting this sentence Cllr Williams was going beyond merely informing his ward residents of the situation and was encouraging readers to make adverse inferences about the way the Council, and the Planning Department operate.
- 6.4 The Committee concluded that the comment was thoughtless, it showed a lack of respect for officers and was inappropriate. By posting as he did, he undermined the work of planning officers.
- 6.5 Cllr Williams sought to justify his comments by pointing out the problems (ongoing) with the Planning Portal and claiming that his tweet was also an attempt to get the issue resolved. While the Committee accepted that there is clearly an issue, it has no bearing on the comment that he made which carries a clear inference that the portal was taken down deliberately.

The exchange with the spoof account

- 6.6 The Committee accepts that Cllr Williams does not condone violence against anyone. However, it does not accept his explanation that he only engaged with the spoof account because he knew it to be tongue in cheek and that he would not have responded or engaged if this were not so or he did not know the person responding. A post on Twitter is, as the Investigator pointed out, a post to the world and Cllr Williams could not have known who else might have seen the exchange and who may have taken it at face value as encouraging violence against council officers.
- 6.7 The Committee does not accept Cllr Williams' argument that the matter needs to be seen in the context of allegations of bullying within the Council and his assertion that he is subjected to bullying and adverse treatment by reason of being an independent councillor. Concerns of that nature should be addressed through proper processes and do not justify subjecting officers to potential abuse and unwarranted accusations of wrong doing.

- 6.8 The Committee agrees with the Investigator that this exchange must be seen in the context of the increasing incidence of both verbal and physical abuse and intimidation of, not only public employees, but also elected members and other people in public life nationally. The Committee took particular note of the Complainant's evidence of violence and intimidation of officers at the Council and the measures that are now needed to be taken to help mitigate against this.
- 6.9 Regardless of what Cllr Williams' intentions were, the exchange occurred with little thought on Cllr Williams' part as to the effect that it might have on planning officers trying to carry out their jobs in an increasingly hostile environment. The Committee believes that in engaging in this exchange and by treating a suggestion of assault as light-hearted banter, he failed to value or respect officers, causing distress and undermining them. The post was irresponsible and showed a lack of concern as to the possible consequences for officers.
- 6.10 The Committee also noted that Cllr Williams had indicated that he would have apologised to the Head of Planning and deleted the tweet if the Complainant had approached him personally rather than via email. This suggests that he understood that his post was inappropriate and should have been deleted.
- 6.11 In failing to close down the exchange with the spoof account, Cllr Williams failed to comply with his duty to not only to respect and value employees but to show leadership in his dealings with members of the public on social media. The Committee considers that Cllr Williams has failed to appreciate his duty to comply with all of the Nolan Principles and not just the ones relating to how he represents his ward residents.

H Sanctions applied

- 7.1 The Committee heard from Cllr Williams on the question of sanctions. He indicated that if the Committee felt that he had breached the Code then he apologised to them.
- 7.2 The Committee also heard Mr Wiseman, the Independent Person on the question of sanctions. His comments are summarised as follows:

Cllr Williams is a dedicated councillor, but this is the third time that he has appeared before the Committee. On one occasion there was a finding of no breach. He is aware of everything that is required of him in terms of the Nolan Principles and therefore it is difficult to envisage any training that might be of any benefit to him. He has been on social media training and is clearly competent in its use. Cllr Williams' heart is in the right place but occasionally he lacks sound judgment. As an Independent Councillor without a group to support him, he may feel lonely and beleaguered. It is possible that he might find the help of a mentor to be useful and there needs to be a dialogue established especially with senior officers.

7.3 The Committee decided to:

- (a) publish its findings in respect of Cllr Williams' conduct; and
- (b) recommend to full Council that it formally censures Cllr Williams for his conduct.

I Appeal

8. There is no right of appeal against the Committee's decision.

J Notification of decision

9. This decision notice is sent to:
- Mr Martin Yardley
 - Councillor Glenn Williams
 - Mr David Kitson and
 - Mr Peter Wiseman, OBE, LLB

The decision will also be published on the Council's website.

K Additional help

10. If you need additional support in relation to this decision notice or future contact with the City Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language.

Ethics Committee

Coventry City Council

27 November 2019