

DURHAM COUNTY COUNCIL STANDARDS COMMITTEE PANEL HEARING IN RELATION TO POSSIBLE BREACHES OF THE CODE OF CONDUCT

Reference numbers: MO 127-131 and 133,134,136

Name of member: Parish Councillor Mr Mark Gilbank

Relevant authority concerned: West Rainton and Leamside Parish Council

Name of investigator: Clare Burrows

Date of the hearing: Tuesday 6 September 2016

Names of Standards Committee members:

Chairperson: Councillor Kevin Shaw

Member: Councillor June Clark

Member: Councillor Terry Batson

Name of independent person consulted – Peter Jackson

Name of legal advisor to the Standards Committee: David Taylor

Name of clerk of the hearing: Jill Errington

Preliminary information

On 7th August 2015 the Deputy Monitoring Officer considered a series of complaints concerning the alleged conduct of Councillor Mark Gilbank of West Rainton and Leamside Parish Council. A general summary of the complaints is set out below:-

They related to Councillor Gilbank's alleged behaviour at various Parish Council and Parish Meetings when he is alleged to have been guilty of being disrespectful to others and acting in an intimidatory manner. They relate to facebook postings containing disrespectful and threatening content. They also included his alleged actions of moving boulders surrounding the village green and his manner when confronting others with complaints about their actions or those of their contractors affecting the village green.

The complaints were referred for investigation by the Council's Governance solicitor Clare Burrows who concluded on 17th June 2016 that breaches of the code of Conduct had occurred. A Hearing Panel of the Standards Committee met on 6th September 2016 to consider the complaints where the investigating Officer had found a breach to have occurred.

Oral and written submissions (procedural)

The Standards Committee Panel's decision on procedural matters was as follows:

Hearing to be in public or private

No representations were received. The Committee conferred and decided that the hearing be held in public.

Findings of Fact

The Chair invited Ms Burrows to present her report and address the issue of whether there had been a breach of the Code of Conduct. At the outset the investigating officer withdrew a finding of breach in respect of the part of complaint MO 128 which related to an email to Councillor Bulmer on 29th May 2016. On further reflection the investigating officer considered this was another action taken by Mr Gilbank as a private citizen and not as a councillor. The hearing proceeded in respect of the remaining nine breaches found by the investigating Officer.

In accordance with the Local Determination Procedure the Standards Committee Panel considered the verbal presentation of the Investigation report by the Investigating Officer, during which Ms Burrows called a number of witnesses. The witnesses answered questions from the Panel, the independent person and Councillor Gilbank.

The Standards Committee Panel then invited verbal representations from Parish Councillor Gilbank in order to allow him to challenge any factual findings in the report which he disputed and to address the issue of whether there had been any breaches of the Code of Conduct. Councillor Gilbank responded to questions from the Panel.

Having considered the evidence presented to them the Standards Committee Panel accepted the findings of fact made by the Investigating Officer:

Whether or not Parish Councillor Mark Gilbank has failed to follow the Code of Conduct

The Investigation had explored potential breaches of paragraphs 1 and 2 of the Parish Council Code of Conduct. Paragraph 1 requires members to behave in such a way that a reasonable person would regard as respectful. Paragraph 2 requires members not to act in a way which a reasonable person would regard as bullying or intimidatory.

The Standards Committee Panel's decision on whether or not there had been a breach of the Code of Conduct

The Standards Committee Panel were unanimous in their decision that paragraph 1 of the West Rainton and Leamside Parish Council Code of Conduct had been breached. Whilst the Panel made no finding of bullying or intimidation they expressed the view that certain of the evidence they had heard was on the verge of going beyond disrespect and could have been classed as intimidatory behaviour.

Sanctions

The Panel were disappointed that Councillor Gilbank's behaviour had caused them to have to be critical of so many incidents amounting to breach of the Code of Conduct over a period of 15 months. The Panel requested Councillor Gilbank to make a public apology to those who had cause to complain of his behaviour as a councillor. The Panel suggested that a public statement at the next meeting of the Parish Council might be the most appropriate manner in which to deliver such an apology. The Panel also requested Councillor Gilbank to undertake training on the Code of Conduct which the Monitoring Officer will be prepared to arrange.

Right of Appeal

There is no right of appeal from this decision which is final.

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Chair of the Standards Committee Panel

Date

14 September 2016