

DURHAM COUNTY COUNCIL

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

Reference number: COM121

Name of member: Councillor Mandy Thompson

Relevant Authority concerned: Peterlee Town Council

Name of Investigating Officer: Clare Burrows

Date of the hearing: Thursday 6 April 2017

Standards Committee Hearing Panel:

Chairman: Councillor Bill Kellett

Member: Councillor John Lindsay

Member: Town Councillor Terry Batson

Name of independent person consulted: Judith Common

Legal Adviser to the Hearing Panel: Liam Henry

Clerk of the hearing: Jill Errington

Preliminary information

On 9th July 2015 the Deputy Monitoring Officer considered a complaint from Peterlee Town Council ("the town council") concerning the alleged conduct of Councillor Mandy Thompson of the Town Council. A general summary of the complaint is set out below:-

The complainant alleges that Councillor Thompson contravened the Town Council's members' code of conduct by her conduct towards a former Clerk of the Town Council over a period of a number of months in 2013 and 2014. The alleged misconduct concerned statements and comments made at meetings of the Town Council, and in emails and otherwise, relating to the former Clerk's terms and conditions of employment with the Town Council which it was alleged demonstrated a lack of respect, constituted bullying and harassment and involved the disclosure of confidential information, all matters pertaining directly to the former Clerk.

The complaint was referred for investigation by the Council's Governance solicitor Clare Burrows who concluded on 3rd February 2017 that breaches of the code of conduct had occurred. A Hearing Panel of the Standards Committee met on 6th April 2017 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

Having heard from the member who expressed a desire that the meeting be held in private and from the Investigating Officer who had no objection to the press and public being excluded the Panel duly resolved to exclude the press and the public in respect of the entirety of the proceedings before the Panel.

Representations made by Counsel on behalf of the member

Representations had been received from Counsel on behalf of the member which, in essence, raised a number of shortcomings with both the way in which the complaint against the member had been conducted and with the content of the Investigation report.

In addition to fully considering the representations, the Panel heard from the member briefly on the matter, as well as the Investigating Officer, and having taken advice from the Legal Adviser, were satisfied that there was no reason why the hearing could not proceed. They noted in particular that the Investigation report was of an advisory nature and that any shortcomings that might be alleged, and on which they made no concession, could be addressed through the rigour of the hearing process including the need to take fully into account issues surrounding the member's right of freedom of expression.

Findings of Fact

The Chair invited Ms Burrows to present her report and address the issue whether there has been a breach of the code of conduct.

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 three witnesses. The witnesses answered questions from the panel, the Independent Person and Councillor Thompson.

The Standards Committee Panel then invited verbal representations from Councillor Thompson in order to allow her to challenge any factual findings in the report which she disputed and to address the issue of whether there has been any breaches of the code of conduct. Councillor Thompson also responded to questions from the Panel but did not call any witnesses.

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

Whether or not Councillor Mandy Thompson has failed to follow the code of Conduct

The Investigation report had explored potential breaches of paragraphs 1, 2 and 5 of the Town Council's 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 and paragraph 5 prohibits the disclosure of confidential information.

The Independent Person was able to participate in the hearing, ask questions and give her views on whether the Member had failed to follow the Code of Conduct.

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

A The Panel accepted that Cllr Thompson was originally motivated to behave as she did as a result of her genuine belief that she had identified financial irregularities within the Town Council. This belief could not however justify or excuse her conduct. The Standards Committee Panel were unanimous in their decision that paragraphs 1 and 2 of the Peterlee Town Council Code of Conduct had been breached in relation to the following matters:-

- (i) That at a meeting of Peterlee Town Council's Establishment Committee on the 3rd February 2014 in calling for, in effect, an investigation into the former Clerk's return to work arrangements without first raising it through more discreet channels Councillor Thompson made a direct and unjustified attack on the former Clerk's integrity which showed a lack of respect of the former Clerk contrary to paragraph 1 of the code of conduct.
- (ii) That at the same meeting as referred to in paragraph (i) immediately above, in openly criticising the report concerning an organisational or structural review which had been prepared by the former Clerk, referring to it as "all words and no action" without any attempt to discuss her concerns in advance of the meeting with the officer Councillor Thompson again showed a lack of respect to the former Clerk contrary to paragraph 1 of the code of conduct.
- (iii) That at a meeting of Peterlee Town Council on the 17th February 2014 in referring to the minutes of the meeting of the Town Council's Establishment Committee on the 3rd February 2014 as being prepared incorrectly and being based on a lie Councillor Thompson had failed to treat relevant officers responsible for the preparation and submission of those minutes with respect contrary to paragraph 1 of the code of conduct.
- (iv) That in sending an email on the 17th March 2014 to both the former Clerk and Deputy Clerk requesting a copy of the Town Council's disciplinary policy and advising them both that there was a substantive

need for the policy Councillor Thompson showed a lack of respect to both officers contrary to paragraph 1 of the code of conduct. The Panel found that the email was threatening and inflammatory in nature and was clearly inappropriate particularly given the context of the former Clerk's phased return to work.

- (v) That in sending an email on the 18th March 2014 to the Deputy Clerk containing a detailed Freedom of Information request regarding the former Clerk's employment and her ill health absence Councillor Thompson showed a lack of respect to the former Clerk contrary to paragraph 1 of the code of conduct. The Panel had no hesitation in agreeing with the Investigating Officer that the email was demeaning to the former Clerk and directly questioned her integrity without foundation.
- (vi) That in sending an email on the 25th March 2014 to the Deputy Clerk regarding the former Clerk with a clear implication of wrongdoing on her part for which she had no evidence Councillor Thompson showed a lack of respect to the former Clerk contrary to paragraph 1 of the code of conduct.
- (vii) That in sending an email on the 1st April 2014 to the former Clerk in an exchange of emails concerning her request for items to be added to a meeting agenda that Councillor Thompson showed a lack of respect to the former Clerk contrary to paragraph 1 of the code of conduct in the use of her language within that email which the Panel found to be rude and intemperate.
- (viii) That in the totality of her behaviour generally towards the former Clerk as detailed in the paragraphs above Councillor Thompson had bullied and intimidated the former Clerk contrary to paragraph 2 of the code of conduct with the Panel finding that the sequence of events for which Councillor Thompson was responsible had been designed to undermine the former Clerk at a time when the former Clerk had only just returned to work following a serious illness.

B The Standards Committee Panel were unanimous in their decision that paragraphs 5 of the Peterlee Town Council Code of Conduct had not been breached in relation to the following matter:-

- (i) in relation to Councillor Thompson's exchange with a member of the public when she had advised the person concerned that the former Clerk was "poorly" and had not yet returned to work the Panel found that there had been no substantive breach of paragraph 5 of the code of conduct.

Sanctions

Notwithstanding the breaches of the code of conduct which had been found against Councillor Thompson the Panel concluded, particularly in light of the fact that she was not to seek re-election to the Town Council at the May 2017 local government elections, that no sanction should be imposed on Councillor Thompson.

Right of Appeal

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

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Councillor B Kellett
Chairman of the Standards Committee Panel

Date: ...12 April 2017.....