

Decision Notice: Breach of Calverton Parish Council Code of Conduct

Reference: STD002608

Complaint

On 10th November 2022, the Standards Hearing Panel (“the Panel”) sat at Gedling Borough Council to determine a complaint from Mrs Patricia Marks (“the Complainant”) initially made on 16th February 2021 with additional information received on 19th June 2021 regarding an alleged breach of the Calverton Parish Council Member Code of Conduct (“the Code”) by Councillor Paul Winfield (“the Subject Member”).

The complaint had been referred for investigation by the Monitoring Officer in consultation with the Independent Person in September 2021. An independent investigator was appointed from Wilkin Chapman Solicitors (“the Investigator”). The investigation concluded in June 2022 and the Investigator concluded that Councillor Paul Winfield had breached the following paragraphs of the Code:

5(2)9(c) You must not intimidate or attempt to intimidate any person who is or likely to be:

(i) A complainant

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

The matter was referred for a local hearing following a refusal by the Subject Member to accept a local resolution which included an apology to the Complainant and a commitment to attend training in relation to the Code of Conduct and Civility and Respect in Public Life.

The Panel, sitting on 10th November considered the following information:

- Report of the Monitoring Officer
- Council’s Arrangements for dealing with Code of Conduct Complaints
- Hearing Procedure
- Investigator’s report
- Schedule of Evidence (including the Code of Conduct)

During the hearing, the Panel heard from the following:

- Dave Hayward – the Investigator
- Councillor Lorraine Brown
- Councillor Joan Inger
- Councillor Paul Winfield

The Complainant also attended the hearing but did not give evidence.

The Panel were advised by the Monitoring Officer and heard the views of the Independent Person John Baggaley.

Full details of the complaint were set out in the agenda papers, in summary, the Complainant alleged:

On Wednesday the 16th June the Complainant was in a working party meeting with Lorraine and Joan who is a friend of Paul Winfield's. An hour and a half into the meeting Paul Winfield opened the door, the complainant was about four feet away from him. Councillor Winfield pointed at the complainant and shouted "you are a sad, sad woman. You sad woman" and left. Lorraine said "what was that about" Joan said "was it a code of conduct?" the complainant said, she didn't know.

Ten minutes later Councillor Winfield came back and started shouting and pointing at the Complainant. He was so angry and loud the Complainant couldn't tell exactly what he was saying. Joan went to the door and said "Paul go away and calm down ". Councillor Winfield said "No, I'm not f..... going anywhere, don't you f.....shut this door " . The complainant asked Joan four times to shut the door but she didn't. Councillor Winfield was shouting over the complainant, "I'm not f.....going anywhere ". While Councillor Winfield was still shouting the complainant turned to Lorraine and said, "I'm sorry Lorraine, you were witness to that, I'm sorry but I am going to have to leave."

The Complainant couldn't get out because Paul Winfield was at the door, so the Complainant went onto the bowling green until Councillor Winfield had gone.

The Complainant came back into the room and Paul Winfield had gone into the office which the complainant had to pass. The Complainant said to Lorraine and Joan "if he touches me?"

Paul Winfield was, in a loud voice, reading out what the Complainant believed was a complaint against him.

Decision

In accordance with Sections 28 (6) and (7) of the Localism Act 2011, having carefully considered the allegation in accordance with the Council's Arrangements for Dealing with Complaints about breach of the Code of Conduct, having considered all the information before them and in consultation with the Independent Person, the Panel accepted the Investigator's findings and determined that Councillor Paul Winfield had breached paragraphs 5 and 7 of the Code.

Reasons for Decision

Section 27(2) of the Localism Act 2011 requires all relevant authorities to "adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity."

Calverton Parish Council has adopted such a Code of Conduct which reflects this and states:

“3. (1) Subject to sub-paragraphs (2) and (3), 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;
- and references to your official capacity are construed accordingly...

The Panel determined that on 16th June 2021 when the Subject Member confronted the Complainant, the Code was engaged. The Subject Member accepted that on receipt of the details of a Code of Conduct Complaint made against him arising due to the office he held as Councillor, he went to the village hall with the intention of confronting the Complainant about it.

The Panel were satisfied that the complaint itself was Council related business and as such, the confrontation arose due to a Council related matter.

In addition, although not the determining factor, the confrontation took place during a working group meeting set up to conduct Council business to which the Complainant had been invited in his capacity as Councillor. Whilst the Complainant did not attend the meeting to participate, he did enter the meeting and others in the room presumed he was there as an invitee and Councillor.

The Subject Member interrupted a meeting held for Council business to confront the Complainant about a Code of Conduct complaint which only arose because the Subject Member is a Councillor. The Panel therefore determined the Code of Conduct was engaged.

The Panel concluded that the behaviour displayed towards the Complainant on 16th June 2021 by the Subject Member was intimidating, and was therefore in breach of paragraph 5 of the Code. The Panel concluded that it was the escalation of the behaviour displayed that led them to this conclusion, the Subject Member called the Complainant a sad woman but then came back, swore and stood in the door way. It was the continuing behaviour after the Subject Member's initial comment to the Complainant that amounted, in the view of the Panel, to intimidation. The motivation for the behaviour was the complaint made by the Complainant.

The Panel concluded that the behaviour of the Subject Member on 16th June 2021 did bring his office or the Council into disrepute.

The behaviour displayed by the Subject Member, was not acceptable for an individual holding office as a Councillor, in addition, the intimidating behaviour towards a Complainant undermines public confidence in the process of dealing with Code of Conduct complaints. Councillors are expected to maintain standards of behaviour in public office and the behaviour displayed by the Subject Member, however justified he felt it was, was not appropriate for the office of Councillor and undermined the complaints process. The Panel therefore concluded that paragraph 7 of the Code was breached.

Sanctions

Having determined that the Code had been breached by the Subject Member, the Panel sought representations from the Subject Member and the Investigating officer in relation

to sanctions that the Panel may impose. The Panel also sought the views of the Independent Person.

The Panel considered the sanctions available to them under the Council's Arrangements for dealing with Code of Conduct Complaints. The Panel recognised that there had been issues which had driven the Subject Member to behave in the way he had on 16th June 2021 and took this into account as mitigation when considering appropriate sanctions.

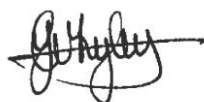
The Panel determined that a requirement for the Subject Member to attend training would have been a sanction they would have considered but the Panel recognised that the Subject Member had recently attended two training sessions at Calverton Parish Council organised by the Monitoring Officer, the Panel commended the Subject Member for his attendance on those courses.

The Panel imposed the following sanctions:

- The Panel determined they would write a formal letter to the Subject Member enclosing the Decision Notice.
- The Panel determined they would send a copy of the Decision Notice to Calverton Parish Council and ask that the Decision Notice be included as an agenda item at the next full Parish Council meeting.

This Decision will be reported to the next convenient meeting of the Standards Committee and will be published as part of that agenda.

Please note, there is no right of appeal against a decision of the Hearing Panel. If the Complainant feels the Council have failed to deal with the complaint properly, he/she may complain to the Local Government and Social Care Ombudsman PO Box 4771, Coventry, CV4 0EH.



Signed:

Dated: 11/11/22

**Francesca Whyley
Monitoring Officer**