



Hearings Sub-Committee Decision Notice

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Decision Notice - Hearings Sub-Committee

A HEARING HELD ON 19 JANUARY AND 2 MARCH 2023 AT THE GATEWAY, GATEHOUSE ROAD, AYLESBURY

SUBJECT MEMBER: COUNCILLOR LINDA DERRICK, HUGHENDEN PARISH COUNCILLOR

Members of the Sub-Committee

Councillor T Broom (Chairman), Councillor B Chapple OBE, Councillor D Thompson

Mr T Dobson (Independent Person), advisory and non-voting.

Participants

Mr N Graham – Deputy Monitoring Officer, Buckinghamshire Council, advisory

Mr J Thomas – external investigator appointed by the Council

Complainant for Complaint PC 32, as a witness called by Mr Thomas

The Sub-Committee noted that the Subject Member, Cllr Derrick, whilst invited, was not in attendance at the meeting. She had however submitted written comments for the meeting on 19 January.

PURPOSE OF THE NOTICE:

1. This is a notice of the decisions made by the Hearing Sub-Committee of Buckinghamshire Council into three complaints made against Cllr Linda Derrick of Hughenden Parish Council. Each complaint alleged that Cllr Derrick had breached the Hughenden Parish Council Member Code of Conduct. In considering the complaints, the Sub-Committee followed the Buckinghamshire Council procedure for undertaking hearings.

SUMMARY OF THE COMPLAINTS

Complaint PC 32

2. This complaint was made by an employee who has since left the Parish Council. The complaint alleged that on 14 May 2021, Cllr Derrick made unreasonable demands of the officer to see documentation held by the Council, despite Cllr Derrick having been informed that this was contrary to the Council's previous resolutions. The employee felt that Cllr Derrick disrespected the employee's role and felt bullied by her into providing the file on Cllr Derrick's terms and not on the Council's.

PC 47

3. This complaint was made by a Hughenden Parish Councillor (since resigned). The complaint was two-fold.
 - 1) That, as in PC 32, Cllr Derrick made unreasonable demands of the employee on 14 May 2021 to access the documentation
 - 2) That Cllr Derrick made unreasonable criticisms of the same employee in online blog posts.

PC 52

4. This complaint was made by a second employee, who has since left the Parish Council. The complaint was that Cllr Derrick unreasonably required that any meetings between Cllr Derrick and the employee be recorded or witnessed by a third party. The employee considered this to be disrespectful of her role and that the behaviour was tantamount to bullying and harassment of her.

DECISIONS:

5. Buckinghamshire Council had appointed an external investigator who presented a report of his findings to the Sub-Committee. In reaching his conclusions, the investigator had reviewed all written evidence and had interviewed each complainant and Cllr Derrick.
6. Following consideration of all of the evidence presented to it, the Sub-Committee upheld each of the recommendations contained in the Investigator's report. Consequently, it found that Cllr Derrick had breached the Hughenden Parish Council Member Code of Conduct in relation to each of the three complaints as set out below. The Panel also upheld two recommendations to find that the Code of Conduct had not been breached as set out below.

PC 32 – complaint:

- A. Cllr Derrick breached paragraph 7.1 of the Hughenden Parish Council Member Code of Conduct, in that Cllr Derrick failed to show respect to an employee of the Council in relation to the incident on 14 May 2021
- B. Cllr Derrick breached paragraph 7.2 of the Code in relation to that incident, in that Cllr Derrick was found to have bullied the employee

PC 47

The first part of this complaint was, in essence, the same as in PC 32. In relation to this (as above):

- C. Cllr Derrick breached paragraph 7.1 of the Code, in that Cllr Derrick failed to treat an employee with respect in relation to the incident on 14 May 2021
- D. Cllr Derrick breached paragraph 7.2 of the Code in relation to that incident, in that Cllr Derrick bullied the employee

The second part of this complaint related to blog posts by Cllr Derrick which allegedly made public criticisms of the same employee. In relation to this:

- E. Cllr Derrick breached paragraph 7.1 of the Code, in that Cllr Derrick failed to treat the employee with respect as an employee of the Council in posting the public blog posts critical of the employee
- F. Cllr Derrick did not breach paragraph 7.2 (duty to refrain from bullying) in relation to this complaint.

PC 52

- G. Cllr Derrick breached paragraph 7.1 of the Code, in that Cllr Derrick failed to treat the second employee with respect in saying that she would only meet with the employee if the meeting were witnessed or recorded
- H. Cllr Derrick breached paragraph 7.2 of the Code in that Cllr Derrick bullied the employee in making this requirement
- I. Cllr Derrick did not harass the employee with regard to this matter and so did not breach the Code (paragraph 7.2) in respect of harassment.

REASONS FOR DECISIONS

PC 32 and equivalent part of PC 47:

- 7. The Sub-Committee agreed that the employee had been put in an invidious and intimidating position in being made to provide documents in a manner expressed by Cllr Derrick, contrary to what the employee genuinely believed to be the stated will of the Council. The Sub-Committee agreed with the investigator that this represented a failure to treat the employee's position and person with respect, that there were other procedural ways in which any disagreement with the employee's role and position could have been addressed; Cllr Derrick's insistence on acting contrary to the employee's statement of the Council's stance and then taking pictures of the material in direct opposition to that stance, was disrespectful. The Sub-Committee considered that the deep upset caused to the employee, albeit during one-off incident, and seemingly not intended as such by Cllr Derrick, was an instance of bullying, having regard to the ACAS definition.

PC 47 – second element

- 8. The Sub-Committee agreed with the investigator's conclusion that the blog posts were, effectively, a public criticism of the employee's performance. Such concerns should have been addressed through the Council's internal staffing procedures. Publishing the criticisms went beyond Cllr Derrick's rights to freedom of expression: it contravened the Council's processes for dealing with concerns about an employee's performance; and it raised the matters in an arena where the employee did not have a legitimate right of reply and when there was no compelling or immediate reason to have done so. The Sub-Committee considered that this behaviour was disrespectful of the role and position of an employee of Hughenden Parish Council and so breached the Code of Conduct in

that respect. The Sub-Committee also noted from the investigator's report that while the employee considered the posts to be "frustrating and on occasion humiliating" they did not have a sustained impact which could be considered bullying: as such the Sub-Committee did not find that bullying had occurred.

PC 52

9. The Sub-Committee agreed with the recommendation of the investigator that Cllr Derrick's requirement was inappropriate and unreasonable. The Sub-Committee agreed with the investigator that "the insistence on having a witness/recording by a councillor is an abuse of power which has very strong negative connotations regarding the trustworthiness" and accepts that the requirement caused the second employee a great deal of upset. As such, the Sub-Committee agreed that the requirement was disrespectful to the person and position of the employee and so breached the Code; and that the impact of the behaviour was such that it was bullying in nature, and consequently was a breach of the Code.

SANCTIONS

10. Having made its findings, the Sub-Committee adjourned the 19 January meeting to 2 March in order to discuss any appropriate sanctions that should apply where a breach of the Code had been found. The Sub-Committee noted that while Cllr Derrick had decided not to attend the proceedings of the Hearing Sub-Committee on 19 January, it would nevertheless offer her the opportunity to comment on the subject of sanctions, as envisaged in the Contested Hearing Procedure. In the event, Cllr Derrick did not make any comment and did not attend the reconvened meeting.
11. The Sub-Committee decided to recommend the following sanctions to Hughenden Parish Council as an appropriate and proportionate means of addressing the various breaches found:
 - A. Ask Cllr Derrick to issue a written apology to the complainants of PC 32 and PC 52, (to recognise the upset caused to both former employees)
 - B. Censure Cllr Derrick for each of the breaches (*given the seriousness of the findings and to place on record the Council's collective commitment to high standards of public conduct*)
 - C. Issue a press release to report the breaches and sanctions to the wider public (*to demonstrate the importance of high standards of public conduct and the integrity of the Member Code of Conduct complaints process*); and to note where breaches were not found
 - D. Place a statement on the Parish Council's website and public notice boards about the breaches and sanctions; a similar notice to be placed on Buckinghamshire Council's website (*for the same reason as in C, with particular emphasis on informing local people of the same*); and to note where breaches were not found
 - E. Require Cllr Derrick to attend arranged training in observing the member code of conduct; councillor-officer relations; and in handling personal data (*to ensure proper understanding of these areas of governance and to ensure Cllr Derrick can be more fully effective in future as a councillor*)
 - F. That from the date of Hughenden PC's resolution until Cllr Derrick attends this training, she be excluded from attending any premises of HPC except to attend

meetings of the Council (*given that Cllr Derrick's behaviour was directed towards an employee outside of a meeting context*)

This decision is final and there is no right of appeal.

ADDITIONALLY

12. The Sub-Committee also agreed that it would issue a press statement about the above decisions, to give transparency to them.

13. As a separate issue from the complaints and having regard to the future arrangements of Hughenden Parish Council, the Sub-Committee agreed to highlight the following best practice to the Council to it:
 - 1) Consider adopting a *Councillor-Officer Protocol* – such as the model protocol issued by the Civility & Respect Project
 - 2) Consider adopting a *Social Media Protocol*
 - 3) Consider further developing the Council's ethical culture by, for example, giving consideration to the *Civility and Respect Pledge* formulated by the Civility and Respect Project

Cllr Thomas Broom
Chairman, Buckinghamshire Council Hearings Sub-Committee

2 March 2023

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