



Decision Notice – Hearings Sub-Committee

A HEARING HELD ON 22 NOVEMBER 2023 - THE GATEWAY OFFICES, GATEHOUSE ROAD, AYLESBURY

SUBJECT MEMBER: COUNCILLOR LINDA DERRICK, HUGHENDEN PARISH COUNCILLOR

Members of the Committee

Councillor H Mordue (Chairman)

Councillor P Brazier

Councillor M Baldwin

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

Participants

Mr N Graham – Deputy Monitoring and Investigating Officer, Buckinghamshire Council

The Sub-Committee noted that the Subject Member, Councillor Derrick, whilst invited, was not in attendance at the meeting.

PURPOSE OF THE NOTICE

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

SUMMARY OF THE COMPLAINT – PC 63

2. The complaint was made by an employee of Hughenden Parish Council who has since left the Council. The complaint alleged that on 1 February 2023, Cllr Derrick published a public blog post in which she disclosed personal data relating to the staff member's employment and in relation to a complaint that the staff member had made about Cllr Derrick; that complaint was then being heard confidentially by Buckinghamshire Council's Hearings Sub-Committee. The complainant felt that this blog post breached the Code of Conduct in several respects:

- a) Cllr Derrick had failed to show respect to an employee by publishing the personal details about her and about the complaints investigation;
- b) Cllr Derrick's actions amounted to bullying and harassment against someone who had brought a complaint against her;
- c) Cllr Derrick had not complied with the confidentiality requirements that should apply both to an employee and to the then-current complaints process;
- d) Cllr Derrick had not cooperated with the investigation process by publishing the details about the original complaint.

DECISIONS:

3. The Hearings Sub-Committee had received written material which included the complaint, a copy of the blog post and a report from the Investigating Officer (nominated by the Council's Monitoring Officer). The Investigating Officer presented his report and the Hearings Sub-Committee also heard the views of the Independent Person. Cllr Derrick had not submitted any comments and did not attend the hearing in person or via a representative.
4. Following consideration of the evidence presented to it, the Sub-Committee upheld each of the findings contained in the Investigator's report. Consequently, it found that Councillor Derrick had breached the Hughenden Parish Council Member Code of Conduct in relation to the complaint as set out below.

PC 63 – Complaint made by 'X' regarding a Parish Councillor

5. The complainant alleged that Cllr Derrick breached the [Hughenden Parish Council Member Code of Conduct](#) in four respects:
 - (1) 7.4 of the Code: in wilfully disclosing personal and confidential information;
 - (2) 7.2: in bullying the complainant by virtue of publishing the confidential information about her which continues to have an adverse impact on her;
 - (3) 7.1: in failing to respect the complainant by disclosing information relating to her former employment and her Code of Conduct complaint; and
 - (4) 12: in failing to engage properly with the complaint process.

RATIONALE FOR DECISIONS

6. In reaching its decisions, the Sub-Committee agreed that, in her public blog, Councillor Derrick's blog post cited personal information about the employee in several respects:
 - a) It identified 'Ms 'X', then an employee of HPC.
 - b) It referenced a sum of money that Ms 'X' may have received from HPC.
 - c) It referenced that Ms 'X' had made a complaint against Councillor Derrick.
 - d) It referenced Ms 'X's alleged intent formally to raise concerns with her employer about her employment.
 - e) It referenced Ms 'X's resignation.

7. The Hearings Sub-Committee considered that the principal issue was whether Cllr Derrick was justified in making these disclosures. The Sub-Committee concluded that she was not. It considered that Cllr Derrick's actions were a breach of the Code.
8. As regards her disclosures about the **complaints process**, it was the Sub-Committee's view that it must have been abundantly clear to Cllr Derrick that the complaints process to which she was subject (and which was ongoing at the time of the blog post) was a confidential process. A Hearings Sub-Committee had met in January 2023 and had found breaches of the Code; it had then adjourned until March 2023 when it would consider the matter of sanctions. The blog post occurred between these two dates while the complaint was still formally being considered.
9. Councillor Derrick had been in correspondence with Buckinghamshire Council on the topic of confidentiality prior to the hearing dates being agreed. Councillor Derrick had wanted the January hearing to take place in public. Buckinghamshire Council had explained why the information was confidential and that confidentiality would be reviewed and considered by the Hearings Sub-Committee at that first meeting: it was and the Sub-Committee regarded the proceedings as exempt owing to the confidentiality of the information. Councillor Derrick can therefore have been in no doubt that the proceedings were deemed confidential. Whether she personally disagreed with this decision was irrelevant.
10. As such, Councillor Derrick "ought reasonably to have been aware" that the information was of "a confidential nature" (Code paragraph 7.4.2). Councillor Derrick had been invited to attend the hearing in January but chose not to present her submissions in person but submitted written material. The Sub-Committee concluded that Cllr Derrick wilfully published the material through a means of her choosing rather than through the proper, statutorily-required process, contrary to Code paragraph 12.
11. Cllr Derrick's opportunity to make representations was within the complaints process as adopted by Buckinghamshire Council for this purpose as required by law. It was therefore clear to the Hearings Sub-Committee that Cllr Derrick intentionally disclosed personal information about the employee's complaint.
12. As regards the disclosure of the **employee's employment information**, the Hearings Sub-Committee also found this to be unwarranted, inappropriate and a breach of the confidentiality expected of a councillor.
13. In both respects the complainant would be well within their rights to pursue a claim with the Information Commissioner for these disclosures.
14. While the complainant had used the word 'harassment' as well as 'bullying' in her complaint, the Hearings Sub-Committee agreed with the Investigating Officer that it was the element of 'bullying' that had been proven (Code paragraph 7.2); as well as that of disrespect (Code paragraph 7.1). No allegation of harassment was pursued.

15. The Hearings Sub-Committee concluded that, given the circumstances and timing of its publication, the blog post appeared designed to challenge and undermine the complaints process. It was clear that the complainant had been upset by the disclosure of her personal information. In addition, because she felt personally bound by the duty to respect the confidentiality of the complaints process she did not consider herself able to respond or make any public comment about the information that Councillor Derrick had disclosed. The Hearings Sub-Committee also accepted as reasonable the complainant's concerns over her future career prospects with such personal disclosures remaining on the blog.

Conclusions

16. The Hearings Sub-Committee found that the disclosures breached the Code requirement for members not to disclose information that they know, or ought to know, was confidential. This was a breach of Code paragraph 7.4.

17. Having regard to the definition of bullying within the Hughenden Parish Council Member Code of Conduct, the Sub-Committee agreed that Councillor Derrick's conduct in making the disclosures did amount to bullying. This was a breach of Code paragraph 7.2.

18. The Sub-Committee also found that the publication of the information was inherently disrespectful, and a form of attack. For a Councillor to make an unauthorised disclosure of personal data about a former employee and to disclose details of a confidential complaint particularly while it was live and unresolved was inappropriate. It followed that Cllr Derrick did not show due respect to the complainant and indeed seemed cavalier in her view of the impact of these actions on 'X'. This was a breach of Code paragraph 7.1.

19. The Sub-Committee concluded that Cllr Derrick's disclosures about the complaints process were inconsistent with the Code obligation to comply with an investigation, which includes compliance with the procedures laid out for hearing a complaint. Cllr Derrick's non-engagement with the current complaint was also inconsistent with this obligation. This was a breach of Code paragraph 12.

20. The Independent Person, while advisory only and not a decision-maker, was in agreement with the Sub-Committee's conclusions as to fact and as to whether a breach had occurred in each instance.

DECISION ON SANCTIONS

21. In recommending sanctions, the Sub-Committee considered whether there might be any mitigating factors for Councillor Derrick's actions, and had regard to the Local Government Association's guidance on such factors. It found that, in all the circumstances, there were none. The Sub-Committee was mindful that in large measure the complaint related to Cllr Derrick's treatment of an employee and her personal data. The sanctions considered reflected this and were expressive of the Sub-Committee's intention that Cllr Derrick's contact with staff and their information should be minimised

until Cllr Derrick has undergone relevant training about how to handle staff information properly.

22. The Sub-Committee agreed the Hughenden Parish Council should be recommended to adopt the following sanctions:
- 1) To require the subject Member to make a formal apology to Ms 'X'.
 - 2) To issue a formal censure against the subject Member for her conduct in relation to this complaint.
 - 3) To arrange training for the subject Member on data protection and in particular the recognition, and proper handling of, personal data about staff.
 - 4) For a period of time, to remove the subject Member from, and not appoint her to, any or all Committees, Sub-Committees or appointment panels of the authority that might give her access to employee information.
 - 5) To restrict the subject Member's access to council offices (apart from attendance at formal meetings of which she remains a member) until such time as the training detailed in recommendation 3 has been undertaken.
23. It would be for Hughenden Parish Council to decide whether to adopt the recommendations in full or in part.
24. The Sub-Committee also agreed that in addition to publishing this Decision Notice, Buckinghamshire Council should also issue a media release to publicise the outcome of the hearing.

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

25. The meeting concluded at this point.

Councillor Howard Mordue
Chairman, Hearings Sub-Committee

Date 22 November 2023