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STANDARDS COMMITTEE

9 JULY 2019

Present: Councillors Barnett (Chair); Bishop; Edwards; and Roberts.
Independent Persons: John Baker; and Amanda McIntyre.

16. APOLOGIES FOR ABSENCE

Apologies received for Councillor O'Callaghan.

17. DECLARATIONS OF INTEREST

None.

18. MINUTES OF THE PREVIOUS MEETING

The chair deferred approval of the minutes to the next annual meeting.

19. STANDARDS COMPLAINT - 2019/2

The Monitoring Officer presented a report to decide what action to take in respect of a complaint against Councillor X regarding the following parts of the Code of Conduct:

Paragraph 3(1) – You must treat others with respect.

Paragraph 5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

The Monitoring Officer received the complaint on 15th April 2019 and a copy of the complaint was included in the report.

The complaint was not actioned fully at the time of receipt because of 'Purdah' restrictions.

The Monitoring Officer and Deputy Monitoring Officer met the complainant on 5th June 2019 to explain the procedure in person and give the complainant the details of both of the Independent Persons. The Complainant had asked for an early indication of the Monitoring Officer's opinion on the complaint. This was given. The Monitoring Officer had formed the view that the complaint did not engage the Code of Conduct.

The Monitoring Officer sought the views of an Independent Standards Consultancy. Their advice was included in the Monitoring Officer's report.

The Committee considered the external advice, asked questions of the Monitoring Officer and sought the views of both Independent Persons. The Sub-Committee initially considered if the complaint met the initial tests as set out in the report:

a) It is a complaint against one or more named councillors of the Council;

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- b) The named councillor was in office at the time of the alleged conduct and the Code of Conduct was in force at the time; and
- c) The complaint, if proved would be a breach of the Code under which the member was operating at the time of the alleged misconduct.

The Committee felt that the complaint did not meet paragraph (c) of the initial test and therefore the Code of Conduct was not engaged.

RESOLVED (unanimously): -

- 1. Complaint 1 - Code of Conduct not engaged. No further action.**
- 2. Complaint 2 - Code of Conduct not engaged. No further action.**
- 3. Complaint 3 - Code of Conduct not engaged. No further action.**
- 4. Complaints 4-7 - Code of Conduct not engaged. No further action.**

Reasons for Decision

1. The Committee agreed with the external advice in that Councillor X is a member of the organisation complained of as a private individual and not through X's role as a councillor. As such the Code does not apply to simple membership. Nor does association with any views expressed by the organisation have any formal relation to X's role as a borough councillor. The organisation is not a proscribed organisation. The Committee conclude that Hastings Borough Council has no locus to investigate the matter as a potential breach of the Code of Conduct.
2. The Committee agreed with the external advice in that Councillor X was not conducting Council business when giving the interview and that any reasonable, objective observer would be able to read the interview and discern that Councillor X was expressing X's own opinions and not those of the Council as a whole. As such the application of the Code would be a disproportionate restriction on X's freedom of speech.

The Committee conclude that, although the article may have made clear that Councillor X was a Councillor X was clearly not engaged on Council business nor was Councillor X acting as a representative of the Council but simply expressing personal and party political views. As such it is their belief that the Code of Conduct is not engaged in this case.

3. The Committee were not aware of any specified dress code for Council meetings, prohibition on wearing badges or reference in the Council's Constitution. The Committee consider that this was a matter for the political groups to consider. The Committee were advised that the badge has not been worn since the meeting. They could find no evidence of malice in wearing this specific badge. It is the view of the Committee that simply wearing the badge is not sufficient to engage the Code of Conduct.
4. The Committee agreed with the external advice that as with complaints 1 and 2 above this was not engaging Council business and that matters of internal disciplinary processes are a party matter and fall outside the jurisdiction of the

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Localism Act. It is the Committee's view that the Code of Conduct does not apply. In fact most of these issues are national party matters so it is even more removed from the scope of the Council's Code.

20. STANDARDS COMPLAINT - 2019/6

The Monitoring Officer presented a report to decide what action to take in respect of a complaint against Councillor X regarding the following parts of the Code of Conduct:

Integrity

2. Councillors and co-opted members should not place themselves in situations where integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. Councillors and co-opted members should show integrity by consistently treating other people with respect, regardless of their race, age, religion, gender, sexual orientation, disability or position, for example as an officer or employee of the authority.

General obligations

3. (1) You must treat others with respect.
(2) You must not—
(a) do anything which may cause your authority to breach any of its the equality duties (in particular as set out in the Equality Act 2010);
(b) bully any person;

The Monitoring Officer received the complaint on 15th May 2019. A copy of the complaint was included in the Monitoring Officer's report. The complaint was not actioned fully at the time of receipt because of 'Purdah' restrictions.

The Committee watched a recording of a council meeting in relation to the complaint. The Monitoring Officer answered questions regarding the complaint and the Independent Persons gave their views.

The Sub-Committee initially considered if the complaint met the initial tests as set out in the report:

- a) It is a complaint against one or more named councillors of the Council;
- b) The named councillor was in office at the time of the alleged conduct and the Code of Conduct was in force at the time; and
- c) The complaint, if proved would be a breach of the Code under which the member was operating at the time of the alleged misconduct.

The Committee felt that the complaint did not meet paragraph (c) of the initial test and therefore the Code of Conduct was not engaged.

RESOLVED (unanimously): -

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Complaints 1-3 - No breach of Paragraph 2 and 3(1) 3(2)(a) and (b) of the Code of Conduct or any equalities duties. No further action.

Reasons for Decision

The Committee having viewed the recording of the meeting and read the transcript of that meeting found that Councillor X controlled the meeting well, was polite and acted in accordance with the Council's Constitution, Code of Conduct and Equalities duties. The Committee thought it pertinent that the complainant stated they would return to the programme on a number of occasions but did not despite being offered by Councillor X on at least 2 occasions. The Committee found that the complainant was not speaking to the programme and that Councillor X was within their discretion under the Constitution to not allow the complainant to complete their speech. Councillor X had no reason to prevent Councillor Y from speaking as that speech was linked to the agenda item.

21. STANDARDS COMPLAINT - 2019/5

The Monitoring Officer presented a report to decide what action to take in respect of a complaint against Councillor X regarding the following parts of the Code of Conduct:

Paragraph 3(1) – You must treat others with respect.

(2) You must not –

(b) bully any person.

The Monitoring Officer received the complaint on 12th April 2019. The complaint was not actioned fully at the time of receipt because of 'Purdah' restrictions.

A copy of the complaint was included in the Monitoring Officer's report.

The Committee asked questions of the Monitoring Officer and sought the views of both Independent Persons.

The Sub-Committee initially considered if the complaint met the initial tests as set out in the report:

- a) It is a complaint against one or more named councillors of the Council;
- b) The named councillor was in office at the time of the alleged conduct and the Code of Conduct was in force at the time; and
- c) The complaint, if proved would be a breach of the Code under which the member was operating at the time of the alleged misconduct.

Having considered the complaint the Committee decided that it was unable to conclude whether or not the complaint met paragraph (c) of the initial test.

RESOLVED (unanimously): -

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Seek external advice. A further meeting of the Assessment Committee was to be set up following receipt of the external advice.

Reasons for Decision

The Committee asked the Monitoring Officer to seek external advice as she did on other complaints as to whether the Code of Conduct was engaged and whether they consider on the evidence that there is a case to answer. They felt that an independent view would be beneficial.

(The complainant subsequently withdrew their complaint against Councillor X.)

(The Chair declared the meeting closed at. 4.08 pm)

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