

Standards Sub-Committee Decision Notice

Hearing of 11 February 2020

Attendance

Sub-Committee:	Councillor Norman Miles (Chair)
	Councillor Peter Geary
	Councillor Paul Alexander
	Parish Councillor Phil Windsor
Independent Person:	Maureen Briggs
Investigating Officer:	Emma Griffiths
Legal Advisor:	Katrina Hulatt
Committee Manager:	Jane Crighton
Subject Member:	Councillor Vikas Chandra and supporter
Press and public:	5 members of the press and public present

Details of the Complaint

The Monitoring Officer of Milton Keynes Council received complaints about a Parish Councillor of Kents Hill and Monkston Parish Council in September and October 2018.

The three complaints were brought by Dr Jane Harrington, Ms Vicky Mote and Ms Abi Bassett against Councillor Vikas Chandra, a Member of Kents Hill and Monkston Parish Council, regarding alleged breaches of the Code of Conduct.

The Complainants variously allege that the subject member had breached paragraphs 2 & 5 of the Kents Hill and Monkston Parish Member Code of Conduct (adopted 2012) and paragraph G of the Kents Hill and Monkston Parish Member Code of Conduct (adopted 2018) and specifically that:-

- He disclosed information of personal information to those not entitled to receive it.
- His pattern of behaviour amounted to bullying.
- His behaviour was incompatible with the obligations and conduct required of members.

On 2 November 2018, the Independent Person for Milton Keynes Council, considered the complaints on behalf of the Monitoring Officer. The conclusion was that the Member who is the subject of the complaint was acting as a Councillor at the time the alleged breaches of the Code of Conduct and had a case to answer. An external investigator was appointed to conduct the investigation. The investigation has been completed and a report submitted for the consideration of the sub-committee.

Preliminaries

The subject matter was in attendance at the meeting. The meeting was held in public and one member of the public was heard by the Sub-Committee.

Findings of fact and Reasons

Based on the answers given by the Investigating Officer and Dr Chandra, alongside the documents referred to by Dr Chandra and the legal advice advanced, the facts of the case were accepted as they as they appeared in the investigators report.

In particular it was found that;

- The meeting of the Parish on the 29 October 2018 properly made the information exempt, because it was personal information.
- The information disclosed was personal about the clerk (specifically about her employment and settlement agreement).
- Dr Chandra disclosed that information to a third party who was not entitled to receive it.
- Dr Chandra has persistently challenged and disrupted the work of the clerks and locum clerks of the Parish.
- Dr Chandra threatened to leave the meeting of the Parish on 29 October 2018 in the knowledge that the meeting would not be quorate and unable to complete any further business.

The Sub-Committee weighed the information (provided by Dr Chandra) contained within of s111 (1A) of the Employment Rights Act 1996, the ICO's guidance on Requests for personal data about public authority employees and the ACAS Code of Practice on Settlement Agreements against the legal advice provided. Specifically that that the meeting was properly made exempt was not in question and further that the information shared was personal to the clerk, being about her employment and a potential settlement agreement. Overall, the Sub-Committee found no basis

that there was any public interest in Dr Chandra sharing the information, nor that there was any relevant enactment that would empower him to do so.

Dr Chandra did not dispute that the individual with whom the information was shared had not signed his acceptance of office and was therefore not entitled to receive the information in question. Although a justification was advanced that the information was shared with an officer of the local Labour branch because it might have had an impact on Dr Chandra's selection as a Candidate at forthcoming Borough elections, legal advice was that this provided no basis in law to share the information.

The Sub-Committee accepted the view that Dr Chandra's continued challenge hindered the work of the Parish Council and was disproportionate to the responsibilities of the Parish Council and the resources available to it. However, the committee also accepted the Investigating Officer's view that such challenge represented Dr Chandra's views and frustrations. Overall, the Sub-Committee concluded that there was no evidence presented that this was specifically directed at individuals or that it was disrespectful.

It is not disputed that a revised Code of Conduct was adopted by resolution at the meeting of 29 October 2018. Subsequent to this, Dr Chandra threatened to leave the meeting, meaning it would be unable to transact any further business because it would not be quorate. There are conflicting accounts of what was said at the meeting and Dr Chandra disputes the accounts accepted by the investigator, indicating simply that he suggested he had a personal interest and would therefore not participate in that item of business. On the balance of probabilities, the Sub-Committee accepted the Investigating Officer's conclusions.

Decision on Breach:

On the basis of its finding of fact and upon considering the agenda papers including the Investigation Report and upon considering the view of the Independent Person the Sub-Committee makes the following decision:

1. That the subject matter was not in breach paragraph 2 of the Kents Hill and Monkston Parish Council Code of Conduct, adopted 8 October 2012 in relation to bullying.
2. That the subject matter was in breach of paragraph 5 of the Kents Hill and Monkston Parish Council Code of Conduct adopted 8 October 2012, relating to confidentiality;

5. *Respect the confidentiality of information received by them as a Member:-*

(a) not disclosing information to third parties unless

i. required by law to do so; or

ii. where there is a clear and overriding public interest in doing so and the disclosure is made in good faith and in compliance with the reasonable requirements of the Council

3. That the subject matter was in breach of paragraph p of the Kents Hill and Monkston Parish Council Code of Conduct, adopted on 29 October 2018, relating to conduct;

p) Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Authority and never undertake any action which would bring the Authority, of its members or officers generally, into disrepute.

Decision on Sanctions

The Investigating Officer stated that the sanctions should be as in her report, with the addition of Data Protection training. The Independent Person's written submission indicated that she supported the sanctions as set out in the Investigating Officer's report.

The Sub Committee determined the following sanctions:

- Dr Chandra should be Censured, that the outcome of their determination should be published in the usual way and that Dr Chandra apologise to the complainants.
- That Dr Chandra should undertake training on both the Code of Conduct and Data Protection.

Appeals

This Appeal process only applies to complaints which have been considered by a Hearings Sub-Committee. There is no right of appeal for complaints that have been decided at an earlier stage of the process.

If either the Complainant or the Subject Councillor against whom a complaint has been made is dissatisfied with the outcome, they may Appeal to the Monitoring

Officer at Milton Keynes Council, Legal and Democratic Services, Civic, 1 Saxon Gate East, Central Milton Keynes, MK9 3EJ.

Any Appeal, setting out full reasons, must be received in writing within 10 working days of issue of the written decision notice and may only be made on the grounds of:

- (a) the procedure being wrongly applied; or
- (b) significant new evidence has come to light since the Hearing (Hearing Sub-Committee meeting)

which has resulted in the Appellant's view, an unfair decision.

The Monitoring Officer, in consultation with the Chair and Vice-chairs, of the Standards Committee will decide if the Appellant has set out sufficient grounds for appeal under (a) and/or (b) above.

Appeal Sub-Committee

An Appeal Sub-Committee will be convened to hear the appeal consisting of no less than three Members of the Standards Committee on a politically balanced basis, where possible.

The Councillors must not previously have been involved in the Hearing Sub-Committee (hearing) of the complaint.

The Standards Committee Hearing Procedure will apply to the Appeal Sub-Committee.