

# **TONBRIDGE AND MALLING BOROUGH COUNCIL**

## **STANDARDS HEARING PANEL**

### **MINUTES**

**Friday, 18th November, 2022**

**Present:** Cllr Mrs T Dean, Cllr P M Hickmott, Cllr K B Tanner,  
Mr W E Stead (Burham Parish Council) and Mr M Williams  
(East Peckham Parish Council)

An apology for absence was received from Prof M McKinlay (Ryarsh Parish Council)

### **PART 1 - PUBLIC**

#### **SHS 22/1 ELECTION OF CHAIR**

**RESOLVED:** That Councillor K Tanner be elected as the Chairman for this meeting of the Standards Hearing Panel.

#### **SHS 22/2 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

#### **SHS 22/3 CONSIDERATION OF MATTERS IN PUBLIC**

The Hearing Panel was invited to determine whether the confidential report of the Monitoring Officer could be considered in public. The Panel was advised that the Hearing should be held in public unless there was a good reason to exclude the public.

The Monitoring Officer submitted that it was in the public interest to hold the matter in public, transparency being a key part of the Nolan Principles. It was therefore important that in discharging its duties in respect of upholding the highest standards of conduct that the public should be entitled to view proceedings.

The Monitoring Officer did acknowledge there were third parties who might be identified through the process but felt that their identities could be protected without the matter being dealt with in private.

The Subject Member submitted that the matter should be heard in private to ensure that he was able to give an open account of what he believed were important factors in the case.

In light of the representations made, the Panel considered that it was important that parties should not feel they were unable to speak freely and therefore, in the circumstances, the public interest in maintaining the exemption should prevail and the matter should be heard in private.

**RESOLVED:** That the Hearing be carried out in private, pursuant to paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972.

#### **SHS 22/4 EXCLUSION OF PRESS AND PUBLIC**

The Chairman moved, it was seconded and

**RESOLVED:** That as public discussion would disclose exempt information, the following matters be considered in private.

#### **SHS 22/5 CODE OF CONDUCT COMPLAINT AGAINST A PARISH COUNCILLOR**

The Hearing Panel of the Joint Standards Committee gave consideration to an allegation that a parish councillor had breached the Code of Conduct of Borough Green Parish Council. The Panel was asked to consider whether Parish Councillor Steve Perry (the 'Subject Member') had breached the Code of Conduct in relation to two member obligations:

- Paragraph 3, which requires that a member shall not "seek to improperly confer an advantage or disadvantage on any person".
- Paragraph 5, which requires that a member shall not "disclose information which is confidential or where disclosure was prohibited by law".

The Panel received the report of the external independent investigator (Investigating Officer), Mr Oram of CH&I Associates, who had been appointed to carry out the investigation into the allegation. The report, dated 26 September 2022, contained details of the relevant legislation and protocols, evidence gathered and witness statements made by and supporting the complainants and was presented by Mr Hedges (Associate Investigator) of CH&I Associates. The Investigating Officer's report found that the Subject Member had failed to comply with paragraph 3 of the Parish Council's Code of Conduct.

The Panel had regard to all the evidence, including the Investigating Officer's report and the evidence given by the Subject Member, both written and oral, and, having taken into account the views of the Independent Person, concluded, on the balance of probabilities on the evidence presented to it, that in relation to paragraph 3:

- (i) the Subject Member had made contact with a third party;

- (ii) in the circumstances, he did not have the consent from the Parish Council to do so, such that the contact with that third party was improper;
- (iii) that, at least in part, the intent had been to disadvantage Parish and Borough Councillor Mike Taylor.

The Panel therefore found that the Subject Member had breached this obligation.

In relation to paragraph 5, the Investigating Officer set out in his report and in answers given to the Panel's questions that the information which the Subject Member communicated to the third party had not possessed the necessary quality of confidence to constitute information which was confidential. The Panel found that the Subject Member had not breached this obligation.

Having found that there had been a breach of the Code of Conduct the adopted arrangements for dealing with complaints required that the Panel heard representations from the Monitoring Officer and the Independent Person on whether there should be any sanctions imposed. In coming to its conclusions on the sanctions the Panel again had regard to the legal advice provided and was mindful of the need to impose reasonable and proportionate sanctions.

The Hearing Panel therefore

**RESOLVED:** That the following sanctions be imposed

- (1) that Borough Green Parish Council be recommended to issue a formal censure by motion to Parish Councillor Steve Perry; and
- (2) the findings of the Hearing Panel be published on the Borough Council's website.

The Panel considered that recommending a formal censure by the Parish Council was appropriate. Whether or not the Parish Council followed this recommendation was a matter for the Parish, but the making of the recommendation indicated the importance of maintaining the highest standards of conduct in local government. Publication of its findings on the Borough Council's own website would also ensure the matter was properly recorded in the event the Parish Council decided not to follow the recommendation.

The meeting ended at 1.30 pm  
having commenced at 9.30 am