

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held in the Council Chamber, County Hall, Wynnstay Road, Ruthin LL15 1YN on Wednesday, 24 July 2019 at 10.00 am.

PRESENT

Independent members Ian Trigger (Chair), Anne Mellor and Peter Lamb together with Community Councillor Gordon Hughes

ALSO PRESENT

Monitoring Officer (Mr G Williams),
Acting for Public Service Ombudsman for Wales (Mrs A Ginwalla and Ms E Lewis),
Prestatyn Town Councillor Peter Duffy and Solicitor (Mr J Owens),
Democratic Services Officer (Mrs K Evans).

1 APOLOGIES

Apologies for absence were received from Councillor Andrew Thomas and Independent Member Julia Hughes.

2 DECLARATION OF INTERESTS

There were no declarations of interest.

3 URGENT MATTERS AS AGREED BY THE CHAIR

There were no urgent matters.

4 DETERMINATION OF AN ALLEGATION OF A BREACH OF THE CODE OF CONDUCT REFERRED TO THE STANDARDS COMMITTEE BY THE PUBLIC SERVICES OMBUDSMAN FOR WALES UNDER SECTIONS 69 AND 71(2) LOCAL GOVERNMENT ACT 2000

Introduction

The Chair, Ian Trigger, asked for introductions from around the table and explained the procedure for the day. The Chair also advised that it was a public meeting and a simultaneous translation service had been provided.

There were potentially four stages to the hearing:

- I. Stage 1 – preliminary procedural issues;
- II. Stage 2 – consideration of any disputed facts;
- III. Stage 3 – decision made on whether on the basis of the facts found, there has been a failure to comply with the Code of Conduct;
- IV. Decision on what sanction to be taken (if any).

Additional information in the form of a copy of the Livingstone v Adjudication Panel England case (October 2006). The Chair asked the Committee to read the paper overnight.

The Chair advised the Public Services Ombudsman for Wales' (PSOW) solicitor (Mrs A Ginwalla) and Prestatyn Town Councillor Peter Duffy's solicitor (Mr J Owens) that Denbighshire County & Prestatyn Town Councillor Paul Penlington (the complainant) was a member of the Standards Committee but the matter of complaint had not been heard at any of the meetings he had attended.

Mr Owens asked that the meetings being considered be referred to with a small "m" as they had not been official public meetings. The PSOW solicitor and Standards Committee Chair agreed.

There being no preliminary issues short opening statements were invited from both sides.

Consideration of any significant disagreements about facts.

Mrs Ginwalla referred to the PSOW's report in the confidential bundle (previously circulated), setting out the complaint from Councillor Paul Penlington regarding Councillor Peter Duffy's behaviour towards him on a number of occasions.

Two of the events were investigated. The incidents on 2 November 2016 and 11 May 2017 were set out in the report and evidenced gathered from a random selection of witnesses.

The PSOW had determined that on the balance of probability that Councillor Duffy's behaviour on the 2 November 2016 had been beyond a level considered reasonable and had potentially been personal abuse. There had also been evidence that Councillor Duffy had said something personal (although there was some disparity as to what witnesses heard) to Councillor Penlington at a meeting on 11 May 2017.

The Committee were advised by the Chair (IT) that Prestatyn Town Councillor Martyn Poller had provided a witness statement to the PSOW previously but would not be attending in person and did not want it to be relied on as evidence. Mrs Ginwalla confirmed that was the case but Councillor Poller's statement and contemporaneous notes from the meeting on 11 May 2017 had been agreed as an accurate record and considered as part of the PSOW's deliberations. The same was true for the witness statement of Prestatyn Town Councillor Sandilands. Councillor Sandilands had not withdrawn his statement but had declined to attend the hearing.

Mr Owens informed the Committee that Councillor Duffy had approached him as a long standing Councillor seeking advice on the response from the PSOW regarding complaints made about his behaviour in addition to the contradictory and factually incorrect witness statements.

Witnesses who had previously made statements for the PSOW were invited to give their evidence to the hearing. There would be an opportunity for both sides and Committee members to ask questions supplementing witness' statements.

When introducing each witness Mrs Ginwalla asked each of them to confirm that they had had the opportunity to review their statement; that they had signed a statement of truth and asked whether any amendments were required (none were).

Witness evidence was heard in the following order from:

- Peter Gaffey – Anti Social Behaviour Officer
- Carol Evans – Assistant Town Clerk (Prestatyn)
- Tina Jones – Denbighshire County & Prestatyn Town Councillor
- Paul Penlington - Denbighshire County & Prestatyn Town Councillor
- Peter Duffy – Prestatyn Town Councillor
- Police Sergeant Mark Jones – North Wales Police
- Gerry Frobisher – Prestatyn Town Councillor
- Andrea Tomlin - Prestatyn Town Councillor
- Linda Muraca - Prestatyn Town Councillor

The Chair confirmed that with respect to the representations of non-attending witnesses:

- Councillor Poller's statement would be discounted and
- Councillor Sandiland's would be considered but with less weight given to it.

Disputed facts.

The Chair referred to the PSOW's disputed facts (page 17) and asked whether these remained disputed or whether there should be any amendments given the evidence heard.

Following discussion it was agreed that the first fact in respect of aggressive and threatening behaviour should be dropped and the wording of the other three disputed facts be amended as follows:

- Did Councillor Duffy demonstrate disrespect and a lack of consideration to either or both police officers at the meeting of 2 November 2016?
- Did Councillor Duffy refer to Council Penlington as a "f***ing prick" or "prick" before the meeting of 11 May 2017 started?
- Did Councillor Duffy refer to Councillor Penlington as a "fool" or "idiot" during the meeting of 11 May 2017?

Both parties were invited to make submissions on the disputed facts from the evidence before them.

Mr Owens raised concerns regarding the partial submission of an email from Police Sergeant Mark Jones. A copy of the original, complete email was in Mrs. Ginwalla's bundle and subsequently shared with Councillor Duffy, Mr Owens and the Committee.

The Standards Committee retired to consider the submissions, asking the Monitoring Officer to join them for part of the recess to advise on procedural matters.

Decision made on whether there had been a failure to comply with the Code of Conduct.

Having considered all the evidence – oral and written the Standards Committee found unanimously that on the balance of probabilities that Councillor Duffy:

- I. Did demonstrate disrespect and lack of consideration to either or both police officers at the meeting of 2 November 2016.
- II. Referred to Council Penlington as a “prick” before the meeting of 11 May 2017 started.
- III. Did refer to Councillor Penlington as a “fool” or “idiot” during the meeting of 11 May 2017.

The Chair thanked both advocates for their manner of representation and asked them to make representations as to whether the actions amounted to a breach of Prestatyn Town Council’s Code of Conduct. The discussion revolved around:

- Para 5 – Members must... show respect and consideration for others and
- Para 6 – Members must not... conduct themselves in a manner which could be regarded as bringing the office of member or their authority into disrepute.

The Standards Committee concluded that Councillor Duffy did give the impression at the meetings that he was acting as a Councillor and was therefore obliged to observe the Code of Conduct.

The Standards Committee found that in respect of each of the facts found Councillor Duffy had failed to show respect and consideration for others and had conducted himself in a manner which could be regarded as bringing the office of member or their authority into disrepute.

Decision on action to be taken (if any)

Both parties were invited to present submissions as to sanctions. Possible sanctions included:

- no further action should be taken in respect of the failure to comply with the Code of Conduct;
- that the Member should be censured; or
- that the Member should be suspended or partially suspended from being a member of Prestatyn Town Council for a period not exceeding six months.

The Monitoring Officer advised that it was for the Standards Committee to decide and referred them to guidance supplied by The Adjudication Panel for Wales.

Following deliberations the Chair announced the Standard Committee’s unanimous decision that Councillor Duffy had breached the Prestatyn Town Council’s Code of Conduct by:

- Para 5 – not showing respect and consideration for others and
- Para 6 –conduct himself in a manner which could be regarded as bringing his office of member or his authority into disrepute.

The parties were informed that they would receive a full, written decision setting out the Committee's reasons for reaching their conclusions.

RESOLVED that Councillor Peter Duffy be suspended from the role of Prestatyn Town Councillor for a period of four months.