

Decision notice in relation to standards complaints 24 – 27/21 against Cllr Wendy Daden

This decision notice relates to item 5 of the Governance Committee agenda for the meeting on 20th September 2022 and the hearing which took place during this meeting. This decision notice should be read in conjunction with the detailed report to the committee and the minutes of the meeting. The committee notified the parties in attendance after their deliberations as to the outcome. This is the written decision notice relating to the outcome which sets out the reasons for the decisions reached.

There were four complaints by separate members of the public for members to formally determine under the complaint references. Details of the complaints are also referred to in the investigation report with appendices which is included within the agenda. These four complaints were formally determined by the Committee.

Complaint 25/21

The committee agreed with the independent investigator that the Councillor was not acting in official capacity and that the code of conduct was not engaged at the time the alleged breach occurred.

Complaints 24 & 26/21

The committee agreed with the independent investigator that the Councillor was not acting in official capacity and that the code of conduct was not engaged at the time the alleged breach occurred. The committee noted that the consideration of official capacity was finely balanced and recommended that Councillor Daden takes further action to avoid future confusion as to whether acting in official or private capacity. Recommendations are dealt with below.

Complaint 27/21

The Committee (by a majority 5 to 1) agreed with the investigator that the Councillor was acting in official capacity and that the code of conduct was engaged at the time the alleged breach occurred. The committee went onto consider whether the Councillor had brought the Council into disrepute.

The Committee were reminded by the MO that at the time of the alleged breach Cllr Daden would have been bound by the old code of conduct where the scope of the code of conduct was only bringing the council into disrepute and not the role of councillor. The current code adopted from 1.8.22 now includes both bringing the Council and role of councillor into disrepute.

The Committee was further advised by the Monitoring Officer as to the content of the LGA guidance relating to the model code (see section 5.1 in relation to “What distinguishes disrepute to your role or local authority from disrepute to you as a person ?”) which was read in full to the committee, so the committee understood the distinction as well as the higher test necessary to establish that a councillor had brought the Council (as opposed to themselves individually or their role as councillor) into disrepute.

One councillor did not consider that the code was engaged in any event. The rest of the committee agreed with the investigator that the Councillor should not have provided unsolicited lobbying material through the newsletter and that whilst this would have lowered public confidence in the councillor’s ability to discharge the office of councillor in this case it is unlikely to damage the Council’s reputation. They concluded that the Councillor did not bring the Council into disrepute but would likely have

brought their role as a councillor into disrepute. However, as this was not included in the code of conduct in force at the time there was no breach of the code of conduct.

Members did wish to remind the councillor that the code of conduct was now broader and make important recommendations relating to the need for the councillor to take greater care in separating official and private newsletters, including ensuring that the appropriate consent was obtained from individuals.

The views of the independent person and the parish representatives (in attendance but non-voting) were also sought by the committee.

Recommendations by the Committee to Cllr Daden

The following recommendations were made by the committee to Cllr Daden: -

1. That council/councillor related news updates should be separated from lobbying and/or any situation where she wishes to act in private capacity to avoid causing confusion to recipients as to whether acting in a private or official capacity. The committee felt that this could be achieved through two separate newsletters.
2. That appropriate and explicit consent is obtained from all current website subscribers before providing them with further lobbying/private capacity updates.
3. That all current website subscriber information including email addresses should not be carried across to lobbying/private capacity updates without such explicit consent to do so.
4. That Cllr Daden does not use the logo or refer to the website (which currently refers to her role as a councillor) when acting in a private capacity. Alternatively, Cllr Daden could update the website to remove references and any other information relating to her role as a councillor so it is only used in a private capacity.

Video

In relation to the video evidence provided by Cllr Daden, the committee determined that this was not relevant to the issues to be considered and that it should not be published on the website.

Request for the Monitoring Officer to withdraw

Cllr Daden asked the Monitoring Officer to recuse herself from the hearing and closed session as a result of the Monitoring Officer decision to refer Cllr Daden for investigation. This was dealt with in the open session of the committee. The Committee Chair explained that she had confidence in the Monitoring Officer remaining throughout the hearing and would value the Monitoring Officer attending the closed session to provide advice as necessary. The Monitoring Officer declined to withdraw (as both the Monitoring Officer and Chief Executive had already explained to Cllr Daden in advance of the hearing) confirming that no decision as to whether there is a breach happens at the initial assessment stage and that neither the Monitoring Officer nor an Independent Person were conflicted in the hearing process through their earlier involvement.

The Monitoring Officer further explained the reasons for referring the complaints for investigation and that this had been finely balanced, requiring her to obtain a second opinion from another independent person as per the procedure. The Monitoring Officer had discussed and agreed with the Chair in advance of the hearing that the committee should determine all 4 complaints (and not administratively by the Monitoring Officer) because 2 of the 3 complaints where the investigator had concluded the councillor was acting in private capacity were finely balanced.

Lorraine Browne

Monitoring Officer

27th September 2022