

MINUTES OF THE GOVERNANCE COMMITTEE

20 September 2022 at 1pm

Present:

Councillor H. Ayres (Chair)

Councillors K. Bentley, D.G. Jones, J.M.C. Raven, M.T. Steel and N.M. Walsh

Also in attendance –

Parish Councillors V Chiswell and P Jackson

Independent Person –
Mrs C Gosling

The Chair agreed to adjourn the meeting at the scheduled 1pm start time for 10 minutes to ensure everyone was present. The meeting then started at 1.10pm

1. Apologies for Absence

Apologies for absence were received from Councillors Dudley and Thorpe-Apps. Cllr Raven substituted for Cllr Thorpe Apps. Apologies were also received from the Independent Person, Mrs Mills and June Saltmarsh.

2. Minutes

The minutes of the meeting on 15 June 2022 were confirmed as a correct record.

3. Declarations of Interest

All Members were reminded to declare any Disclosable Pecuniary interests or other registerable interests where appropriate in any items of business on the meeting's agenda. None were made.

4. Chair's Announcements

No Announcements were made.

5. Standards Complaints 24-27/21 Investigation and Hearing Report

The Committee considered a report asking them to determine the complaints made against Councillor Daden by way of a hearing, pursuant to the procedure detailed at Part 5.1.2 Annex 5 of the Constitution. The Chair explained the processes under the hearing procedure at Part 5.1.2 Annex 5 of the Constitution. Those present were informed that after hearing the necessary information, the Committee would consider the information in private and determine whether the code had been breached. The Committee noted that the following elements of the complaint were to be considered;

- 1) Complaints 24&26/21 both related to a leaflet produced by the Councillor which one of the complainants alleged was disrespectful (24/21) and the other that it was an improper use of the Councillor's position for personal advantage/breach of Nolan Principles (26/21). The investigator's views were that these allegations were finely balanced, but considered the Councillor was acting in private capacity and as such could not have breached the code of conduct.
- 2) Complaint 25/21 related to Facebook posts by the Councillor which were alleged to breach the Nolan principles. The investigator concluded that again the Councillor was acting in private capacity and that no breach of the code could have been made.
- 3) Complaint 27/21 related to the Councillors ward newsletter which was alleged to have brought the Council into disrepute. The investigator concluded that the Councillor had been acting in official capacity and that there could have been a breach of the code of conduct.

At this point in the hearing, Councillor Daden was asked to outline her position. Cllr Daden provided some background information about the content of the newsletter and other elements of the complaint. The Committee was provided with Cllr Daden's view that the Covid vaccine was the most dangerous product ever and that the hearing was the saddest one ever. Cllr Daden stated that the mention of the parish complaints earlier in the year in the report was completely irrelevant. Cllr Daden also stated that it was unfair to include the complaints in the report that the investigator did not feel were justified. Cllr Daden also informed the Committee that the vaccine issue had simply been a difference of opinion and it was her judgment as to whether to lobby on certain issues. Cllr Daden asked the Committee to dismiss the case in its entirety, as the complaint may have been politically motivated and the process destroyed freedom of speech. Cllr Daden also asked for mediation with all parties instead of the hearing and that the Monitoring Officer should not be involved in the process.

In response to some of the points raised, the Chair clarified that there is a set process in the Constitution that needs to be followed when considering complaints. The Chair also stated full confidence in the Council's Monitoring Officer, who was not biased in any way and as in all other complaints, their input would be valued during the

deliberation stage. The Monitoring Officer also clarified that they were not the decision maker and it was the Committee themselves who would decide the outcome.

At this point of the hearing, the Committee received the report of the Investigator, Mrs Koon Koon. The Committee heard the in depth overview and details were all included in the published report and the report detailed the decision making for each of the complaints. The Committee was informed that there had been two areas of focus for each complaint, firstly, whether Councillor Daden had been acting in their capacity as a Councillor and secondly whether the Code of Conduct had been breached. It was noted that two elements for the capacity question were relevant in the Code of Conduct, paragraphs 5.1.1.1.2 and 5.1.1.15.

The Investigator took the Committee through each complaint and explained the process. It was noted that 24 & 25/21 were considered together they both related to the leaflet and there was no need to meet with the complainant. For complaint 27/21 the Investigator did meet with the complainant as it was felt beneficial but Cllr Daden politely declined to meet with the investigator. It was also noted for clarification, that the draft report was not sent to Cllr Daden at the same time as the complainants and this had been an oversight. It was noted however that this was then sent at a later date but still with sufficient time for comments to be made by Cllr Daden who did not suffer any prejudice as a result of this.

The Investigator informed the Committee that for complaints 24 & 26/21 it was their view that these were sent in a private capacity. It was noted however that the logo and name could appear misleading. It was noted that this had been finely balanced and in the report the investigator recommended taking steps to ensure clarity as to the leaflet being sent in a private capacity. The Investigator also stated that complaint 25/21, was also in a private capacity and therefore the code was not engaged.

The Investigator stated their view that complaint 27/21 did reach the threshold of being in Cllr Daden's capacity as a local Councillor. It was noted that the first newsletter actively promoted a medicine at the end after referring to various elements of council business or local news and the second one only referred to the medicine. The Investigator referred to their interview with the complainant, which was detailed in Appendix 5, where they stated they had signed up to the newsletter due to Cllr Daden being their local Councillor. The complainant felt that Cllr Daden had possibly been hacked as it was unlike previous versions of the newsletter. The Investigator stated the view that the Code was engaged in this instance as the newsletter had been used for discharging Cllr Daden's functions as a ward Councillor previously. Further, it was felt this amounted to a breach of the Code of Conduct under 5.1.1.2.1.6 as the mention of the medicine went beyond the role of a local Councillor. The second newsletter also asked residents to assist with promoting the medicine themselves. The investigator stated it was acceptable for Cllr Daden to have her own opinion, but it was not her role to provide unsolicited medical advice or personal views on the matter to local residents. The investigator noted it was a divisive topic and the use of the newsletter to promote personal views could impact public trust in Cllr Daden therefore having the potential to bring the Council into disrepute.

In response to questions from Councillor Daden, the Investigator stated that;

- It was not in the investigators remit to talk about specific medicines.
- The report only looked at the complaints and not the topic of Covid vaccinations, the focus was on whether the code was engaged and whether the code had then been broken.
- They did not feel the complaint had been politically driven.

At this point, the Chair reminded Cllr Daden, to ask questions related to the investigation. The Chair also stated that the Committee were deciding whether there had been a breach of the code and were not engaging in discussions about certain covid vaccinations.

In response to questions from the Committee, the Investigator stated that:

- They had not taken a view on whether the content of the newsletters was misinformation. Their view was that there had been an unsolicited broadcast of public opinion not related to the Council. They also felt that if Cllr Daden had been asked by a member of the public on the street and then provided her view it would not have been an issue.
- It was natural for Councillors to have opinions, the issue was regarding how the opinion was shared.
- The promotion of a product was outside of the Nolan principles. It was noted the role of a local Councillor, is to promote their ward and to keep constituents informed about Council business.
- It was the complainants view that they signed up to the newsletter to receive information about Council business.
- The medical element was the issue as it was a divisive topic and one not related to any Council business.

At this point of the hearing Councillor Daden was invited to respond to the allegations. Cllr Daden informed the Committee the newsletter started in 2015 and had included information on various topics, probably more local issues than actual Council business. She stated she always respected the Nolan principles and disputed breaking them. She felt it was no different to challenge policies related to Covid to ones related to planning for example. Cllr Daden referred to a personal story on the topic and also referred to a video on the topic that members had been sent a copy of prior to the meeting.

The Chair confirmed the video had been viewed in advance and reminded Cllr Daden that the Committee were not present to discuss Covid vaccinations or related topics.

Cllr Daden stated that she had lobbied about the closure of libraries and did not feel that this was any different. She felt it was dangerous to shut down personal opinions from Councillors.

In response to questions from the Committee, Councillor Daden stated that;

- She had started the newsletter as she felt the Parish magazine was not published often enough.

- Some information in the newsletter was received through her role as a City Councillor. She felt it was her right to express her own opinions in the newsletter as, via not being part of a political party they did not have other routes.
- The video that had been circulated was not from a site recognised, as other sites censor similar material.
- She felt it was clear that the newsletter was not only related to Council business.

At this point, the Monitoring Officer clarified a conversation she had had with Cllr Daden which the Monitoring Officer felt had been taken out of context around capacity. She stated that independent Councillors, could of course have newsletters or website but that a difference for Councillors in political groups would have access to a political website and would also be bound by the political party's disciplinary rules. It was noted that these may prevent Councillors saying certain things publicly. Independent Councillors could create their own website as Cllr Daden had and could also be bound by an independent group disciplinary policy. However, this was not necessarily the case. All councillors were bound by the same code of conduct for councillors in any event.

A member of the Committee provided examples of what they felt would be classed as Council business, such as planning issues or the installation of pylons. The Monitoring Officer agreed that these were relevant to Council business as the Council had discussed them at public meetings and responded to consultation on them. It was noted that Cllr Daden took a different view to that suggested by the committee member as to whether the topic of Covid vaccination related to Council business.

At this point of the hearing, the Investigator was invited to summarise the case. The Committee was reminded of the Investigator's findings, and they confirmed they had nothing further to add.

Invited to summarise the case, Councillor Daden noted that she felt her free speech was being restricted and she had no protection from wrongful allegations. She did not feel she could stay silent and would use her independent platform to continue to do so.

The Monitoring Officer clarified at this point that she stood by her decision to refer the complaints for investigation. That decision was finely balanced but warranted external investigation and a member decision. The Monitoring Officer felt that despite the investigator only considering there was a breach in one of the complaints, it was important for members to take a decision on all four complaints and the chair had agreed with her on that approach to determining the four complaints. The Monitoring Officer pointed out that it was not her role to squash multiple complaints made by the public particularly where the position was unclear and it was right for them to be investigated. The Monitoring Officer also stated that a referral for investigation did not necessarily mean that breaches would be found. The Monitoring Officer declined to leave the meeting and highlighted that this request arises from a misunderstanding by the councillor of the initial assessment process.

The Committee retired to determine the complaints in private at 2.43pm

The meeting resumed in open session at 3.42pm. The Committee confirmed that they had come to the following findings.

Complaints 24 & 26/21 – The committee agreed that the question of whether the councillor was acting in official capacity was finely balanced but agreed with the investigator that the councillor was acting in private capacity so the code could not be engaged and no breach arises as a result.

Complaint 25/21 – The committee agreed that the councillor was acting in private capacity so the code could not be engaged and no breach arises as a result.

Complaint 27/21 – The committee agreed with the Investigator that the councillor was acting in official capacity by a vote of five to one. It was noted that the old Code of Conduct under which this complaint had been made only referred to the Council being brought into disrepute. However, the new Code adopted on 1st August is broader and now includes bringing the role of councillor into disrepute as well as the Council itself. The Committee took the view that if the Councillor were to act in a similar manner under the new Code of Conduct, she would likely bring the office of Councillor into disrepute. As such there was no breach of the code of conduct in force at the time the allegation arose.

The Committee also provided the following recommendations for the future to Councillor Daden on the issue:

- Council issues and personal views on lobbying needed to be clearly separated by the councillor to avoid confusion to recipients.
- The subscribers who received the newsletter, need to be explicitly asked if they wish to also receive information on Cllr Daden's personal views and lobbying efforts.
- It needed to be clear if members of the public had subscribed only to receive Council related business that the email addresses should not be carried across to the personal newsletter.
- Agreed the recommendation made by the Investigator in relation to the logo and website when the councillor wished to act in personal capacity.

- The Committee had been unanimous that the video sent to them was not relevant and should not be shared on the Council's website.

Cllr Daden thanked the Committee for their time and apologised for her conduct during the meeting. The Committee was informed that the recommendations would be taken on board, but that Cllr Daden remained of the view that her request to mediate with the complainants should have been accepted.

(1.10pm to 3.50pm)

6. Urgent Business

There were no items of urgent business.

The meeting closed at 4.56pm.

Chair