
**MINUTES OF THE SPECIAL MEETING OF THE STANDARDS COMMITTEE
HELD ON MONDAY 26 JANUARY 2015 AT 10.00 A.M. IN THE COUNCIL CHAMBER,
COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present: Councillors N Stock (Chairman of the Committee), J Hawkins, P Honeywood, I Johnson, F Nicholls and J White (Chairman for the meeting)

Also Present: Councillors D Mayzes and S Mayzes

In Attendance: Corporate Director (Corporate Services) (Martyn Knappett), Monitoring Officer (Lisa Hastings), Communications and Public Relations Manager (Nigel Brown), Senior Democratic Services Officer (Ian Ford) and Democratic Services Officer (Janey Nice)

Also in Attendance: David Holt (Lead Lawyer – Commercial Practice Group, Suffolk County Council), John Wolton (Independent Person) and Reverend Doctor William Lock (Independent Remuneration Panel Member)

20. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received on behalf of Councillor Heaney.

21. MINUTES OF THE LAST MEETING

The minutes of the last meeting of the Standards Committee, held on 17 December 2014, were approved as a correct record and signed by the Chairman.

22. DECLARATIONS OF INTEREST

There were no declarations of interest recorded at this time.

23. HEARING TO DETERMINE OUTCOME OF EXTERNAL INVESTIGATION – FAILURE TO COMPLY WITH THE MEMBERS’ CODE OF CONDUCT

The Chairman of the Committee (Councillor Stock) announced that, in accordance with the Council’s agreed procedures in the light of the fact that the Respondent was a member of the same political group as himself, he would vacate the Chair for the remainder of the meeting.

It was then moved by Councillor Stock, seconded by Councillor Johnson and **RESOLVED** that Councillor White be elected Chairman for the remainder of the meeting.

The Monitoring Officer reported that a complaint had been received in February 2014 from a member of the public, Ms Tracey White, regarding the actions of District Councillor Stephen Mayzes, under the Members’ Code of Conduct and Complaints Procedure, which had been adopted by the Council on 26 November 2013. The complaint had initially been received by way of a letter and the Complainant had then been requested to transfer the content to the Council’s formal Complaint Form. Both the original letter and the Complaint Form had been provided to Councillor Stephen Mayzes. A copy of the Complaint Form was before the Committee as part of Appendix 1 to the Report of the Monitoring Officer.

The Committee was aware from the Monitoring Officer's report that the Complaint referred to a residents' community group, which had been formed following the gas explosion in Cloes Lane, Clacton-on-Sea in February 2014. Councillor Stephen Mayzes had met with the administration team of the group on 6 February 2014 when it was decided that Councillor Mayzes was to be referred to as the Communications Officer. Councillor Stephen Mayzes then made some telephone calls to a local Morrisons Store regarding a charitable contribution of diesel for the efforts of the community group.

The complaint had alleged that Councillor Stephen Mayzes had expressly stated: "I have managed to persuade Morrisons to give us a full tank of diesel and also persuaded him [the Store Manager] to still give you your flowers". That statement had been made directly to the complainant but within the meeting of the community group.

The complaint had also alleged that on the basis of this statement, the community group had relied on that information and filled the tank of a van up at a cost of £90. It had later been confirmed by Morrisons that only £20 had been promised as a donation to the appeal.

The complaint had further alleged that Councillor Stephen Mayzes had lied in respect of the donation and that, as a consequence, the community support fund had suffered a loss of £90.

The complaint had also made reference to Councillor Mayzes stating that he had personally received a full tank of petrol from Tesco's.

On the basis of those actions, the complaint had alleged that Councillor Stephen Mayzes had disregarded two of the Principles of Public Life, namely Accountability and Honesty.

The Monitoring Officer reported that, when the complaint had been received, and after discussing the matter with Councillor Stephen Mayzes, she had decided, in accordance with the Complaints Procedure, that it merited early informal resolution. Councillor Stephen Mayzes had initially offered an apology in February 2014, however, the Complainant had not found this acceptable. A further apology had then been offered by Councillor Stephen Mayzes in May 2014, however, the Complainant still had not accepted the apology, as it had not, in her view, addressed what she saw as the main allegation, namely honesty.

Due to the fact that the informal resolution route had been attempted and had not proven successful, the Monitoring Officer had issued a Decision Notice on 19 May 2014, confirming the decision to investigate. That Decision Notice and Councillor Stephen Mayzes' second apology were before the Committee as Appendix 2 to the Monitoring Officer's Report.

The Committee was aware from the Monitoring Officer's report that both parties had been informed of the decision to investigate and that the Council had appointed David Holt, Lead Lawyer within Legal Services at Suffolk County Council to undertake the investigation on this Council's behalf. Mr Holt's final report had been received on 5 January 2015, which had concluded that there was evidence that the Members' Code of Conduct had been breached. Mr Holt's final report was before the Committee as Appendix 3 to the Monitoring Officer's Report.

It was reported that, in accordance with paragraph 7.1.2 of the Council's Complaints Procedure, the Monitoring Officer had decided that this matter should be reported to the Standards Committee in order to conduct a hearing and to decide whether Councillor Stephen Mayzes had failed to comply with the Members' Code of Conduct and, if so, whether to take any action.

The Committee was reminded that in March 2014, it had approved the Hearings Procedure to be followed when holding a hearing. Both parties had been provided with a copy of the Mr Holt's report and the Hearings Procedure. The Hearings Procedure was before the Committee as Appendix 4 to the Report of the Monitoring Officer.

It was reported that the Monitoring Officer had consulted with the Council's Independent Person (Mr John Wolton) which had resulted as follows:

"The Independent Person (IP) has queried when the second complaint concerning the tank of fuel from Tescos directly and personally to Councillor Mayzes is alleged to have taken place, as it was not clear from the Investigator's Report. On this part of the Complaint the IP felt he was unable to comment on whether a breach had occurred or not.

The IP did find that Councillor Stephen Mayzes' refusal to agree to his interview being recorded disappointing, as one of the Seven Principles of the Code of Conduct is Accountability, which states "holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this".

In respect of the remaining parts of the Complaint, the IP was satisfied that the Investigator had tested the evidence to find a breach of honesty.

As a general comment the IP wished to add, that, as a voice of the general public, he considered that the length of time to resolve this matter was longer than he would have liked. Although it was appreciated that there had been an attempt to resolve the matter informally at the outset which took a couple of months, may be deadlines could be imposed during the investigation process to bring the matter to an earlier conclusion for future cases. Having said that, the IP wished to stress, a delay did not reduce the seriousness of a breach of the Code of Conduct."

The Committee was informed that, upon receipt of the Investigators Report, the Monitoring Officer had sought to clarify that the evidence supported a failure to comply with the Sixth Principle (Honesty) and Paragraph 3.4 of the Council's Code of Conduct for four of the elements of the complaint. The Investigator's Report had concluded in Paragraph 7 that four of the five complaints had been proved, however, only Paragraph 7.2 made specific references to the Sixth Principle and Paragraph 3.4 of the Code of Conduct.

The Committee was advised that the Investigator had confirmed that the reference to the Sixth Principle and Paragraph 3.4(a) should also apply to the findings of the second, third and fifth complaints, as well as the first (paragraphs 7.2, 7.3, 7.4 and 7.6 of his report).

Members recalled that that the Sixth Principle of Public Life was "Honesty" and was defined, as "Holders of Public Office should be truthful" and that Paragraph 3.4(a) of the Members' Code of Conduct stated: "you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute".

The Monitoring Officer reported that she did agree with the IP that the summary of the evidence referred to in the Investigator's Report in connection with the element of the complaint regarding the tank of fuel from Tescos was weaker (paragraph 7.4 of the Investigators Report) and as it was one word against another, she would not recommend a finding of a breach of the Code of Conduct for that allegation.

The Monitoring Officer further reported that she had agreed with the remaining conclusions that District Councillor Stephen Mayzes had failed to comply with the Members' Code of Conduct (paragraphs 7.2, 7.3 and 7.6 of the Investigation Report).

Members were reminded that the burden of proof for civil matters, which included standards investigations was 'on a balance of probabilities' and through the investigation, the Investigator had considered the evidence submitted to him and on the balance of probabilities had found 4 of the 5 elements of the complaint proved. The only evidence or information supplied by the District Councillor to the Investigator through the process was the two apologies offered and the Committee, when considering its finding, was advised to give some weight to this.

The Committee was also advised that it must reach its decision after following the Hearing Procedure and, in accordance with the Localism Act 2011, after considering the comments from the Independent Person and that if its decision was contrary to the recommendation from both the External Investigator and the Monitoring Officer, the detailed reasons for that decision must be recorded and published within the Decision Notice.

The Committee was further advised that if it agreed with the recommendations of the External Investigator and the Monitoring Officer it must consider what action to take with regard to the available sanctions which were set out in Paragraph 8 of the Council's Complaints Procedure.

The Chairman made opening remarks and explained to all persons present that:

- (i) The hearing had been convened in accordance with the Council's Complaints Procedure and that an investigation had been conducted, the outcome of which was that it was considered there was evidence of a failure to comply with the Members' Code of Conduct; and
- (ii) The Parties had been aware of the content of the Investigator's Report and that this had been circulated to all Members of the Committee.

Councillor Hawkins asked what Councillor Danny Mayzes' role was at this meeting. Councillor Stephen Mayzes stated that Councillor Danny Mayzes was present as his representative.

Councillor Danny Mayzes referred to the Complaint Form and the allegation that Councillor Stephen Mayzes had disregarded the "Selflessness" Principle of Public Life, which, he stated had not been referred to in the Monitoring Officer's Decision Notice. The Monitoring Officer confirmed this and stated that the Investigator's Report had only been required to look at the Public Life Principles of "Accountability" and "Honesty".

David Holt (Lead Lawyer – Commercial Practice Group, Suffolk County Council), the Investigating Officer, then highlighted the salient points of his report and read from handwritten notes that he had made during his interview with Councillor Stephen Mayzes. In response to the comments made by the Independent Person he accepted that he should have dealt with the complaint quicker though he felt that the delay had not been of an unreasonable length and that it had not prejudiced the outcome of the case.

Councillor Stephen Mayzes, the Respondent, asked questions of Mr Holt in respect of: (1) the length of the interview that Mr Holt had conducted with him; (2) did Mr Holt show any evidence to him; (3) why did Mr Holt not do so and did this contravene natural justice; (4) did Mr Holt contact Tesco's to check the veracity of this part of the complaint; (5) why did it take Mr Holt so long to contact him; (6) could Mr Holt confirm that he gave him the option not to have the interview recorded; (7) why does Mr Holt's report suggest that by not agreeing to have the interview recorded he was being obstructive and (8) is Mr Holt representing the complainant and her witnesses.

Mr Holt responded to those questions along the following lines: (1) Approximately 5 – 10 minutes; (2) No, he only asked questions though he would have produced the evidence if Councillor Stephen Mayzes had asked; (3) Councillor Stephen Mayzes had not specifically asked to see the evidence and he would only have shared any new evidence with Councillor Stephen Mayzes as he had already been notified of the complaint and supporting evidence; (4) No, he had not; (5) He had waited until he had finished gathering all the evidence from the Complainant which he had completed in August 2014. He accepted that there had then been a delay until October for which he had apologised earlier; (6) He always looked to record interviews as it was easier to transcribe information and maintain accuracy, though, of course he would not insist on it if consent was not forthcoming; (7) In response to this question, Mr Holt read out the contents of two emails that he had sent to Councillor Stephen Mayzes together with Councillor Stephen Mayzes' replies and (8) No, he was only speaking to the conclusions in his report.

Councillor Stephen Mayzes then asked the Monitoring Officer why the Complainant was not in attendance. The Monitoring Officer replied that, in line with practice nationally, only the outcome of the investigation was reported to the Committee though the Investigator had the option to call the Complainant as a Witness. On this occasion, Mr Holt had confirmed that he did not intend to call the Complainant and Councillor Stephen Mayzes had been notified of this before the hearing.

Councillor Hawkins asked for details of Councillor Stephen Mayzes' first apology to the Complainant as it had not been included in the report. Mr Holt read out the contents of that first apology which he had previously been given a copy of by the Complainant.

Councillor Stephen Mayzes then circulated a paper copy of his written submission which he had previously emailed to the members of the Committee. His submission included:

- (1) An email from Tesco Customer Services;
- (2) An article from the East Anglian Daily Times;
- (3) An article from the Clacton Gazette;
- (4) A screenshot of a Facebook page set up by Councillor Stephen Mayzes to communicate to residents and the wider community; and
- (5) An email from the Council's Chief Executive confirming that the Council had not audited the donations received or their awarding. The email also stated that following an approach from Councillor Danny Mayzes expressing his concern that the Community Group giving out the money did not have a process the Council's Chief Executive had put together a form giving a set of questions and requiring evidence of applicants to assist the Community Group in making its funding decisions.

Councillor Stephen Mayzes then elaborated further on these and details of his Ward casebook and detailed his efforts to assist those who had been affected by the Cloes Lane Gas Explosion. He read out an email that he had received from Tesco Customer Services that confirmed that he would not have received free petrol and which he felt had exonerated him on this part of Ms White's complaint and showed that Ms White was unreliable in his evidence. In further support of this he read out an email that he had received from the Council's Chief Executive and from the 'Admin Group's' Facebook page that Councillor Stephen Mayzes personally felt further discredited Ms White's evidence.

He further stated that he had acted as an "honest broker" in respect of the fuel and that the flowers were a private matter between Ms White and Morrison's following a complaint by Ms White to that store. He offered his apologies for any confusion that had occurred over the fuel issue.

In conclusion, Councillor Stephen Mayzes felt that he had "stepped up to the mark" as Ward Councillor and had acted in all sincerity and fulfilled his duties as a Councillor. He felt that Ms White's complaint had been discredited and should be dismissed.

Councillor Stephen Mayzes then called as a Witness, Councillor Danny Mayzes, who had been involved as fellow Ward Councillor. Councillor Danny Mayzes put forward that:

- (1) Ms White had possibly been motivated by a personal dislike for Councillor Stephen Mayzes;
- (2) Mr Holt had wrongly suggested that Councillor Stephen Mayzes had been obstructive by exercising his personal choice not to have the interview recorded. It was not automatic that all interviews were recorded and he gave a personal example of this.
- (3) Councillor Stephen Mayzes had offered his apologies for any failure or miscommunication on his part but obviously did not accept that he had lied;
- (4) Councillor Stephen Mayzes had fully engaged with the process;
- (5) Ms White's fifth complaint that Councillor Stephen Mayzes had failed to support the project helping the victims of the Gas explosion was completely wrong and "disgraceful";
- (6) Mr Holt should have personally contacted both Morrison's and Tesco's to get impartial statements on the veracity of the fuel related allegations in the interests of 'natural justice';
- (7) Ms White's submission suggested that it had already been agreed that flowers would be given by Morrison's to her to resolve a personal issue and therefore it was incorrect and she was "delusional" to accuse Councillor Stephen Mayzes on his matter when it appeared that Ms White was trying to "barter" the flowers for fuel and that this discredited Ms White's complaint;
- (8) Ms White's complaint that Councillor Stephen Mayzes had posted minutes of a confidential Council meeting on Facebook was factually inaccurate as it was in fact a meeting of the Council held in public and that this was further evidence that Ms White was "clutching at straws"; and
- (9) In the light of the above all of the elements of Ms White's complaint should be found unproven.

Mr Holt then asked Councillor Stephen Mayzes why he had still not really dealt with the fundamental point of Ms White's complaint that he had been dishonest in dealing with her. Councillor Stephen Mayzes replied that his dealings had been honest, the evidence produced today showed that Ms White's complaint was discredited and that he felt that Mr Holt had not been honest in dealing with the investigation by virtue of the length of time it had taken.

The Monitoring Officer then reminded Members of the stages that had been followed in accordance with the Complaints Investigation Procedure and confirmed that Councillor Stephen Mayzes had raised concerns about the delay in the investigation process. She had forwarded those concerns to Suffolk County Council and a response had been sent to Councillor Stephen Mayzes as he had mentioned himself earlier.

Councillor Stock then asked questions of Councillor Stephen Mayzes in respect of: (1) could he confirm or deny that he had misled the Complainant; and (2) did he lie to Ms White, deliberately mislead Ms White or accidentally mislead Ms White.

Councillor Stephen Mayzes responded to those questions along the following lines: (1) He felt that his first apology had covered any misinterpretations between himself and Ms White, that the complaint had no creditability and that he tried to act in a fair and honest way; and (2) No – he had not lied to her or been dishonest.

Councillor Nicholls then asked questions of Councillor Stephen Mayzes in respect of: (1) Did he say to Ms White that he had managed to get both a full tank of fuel and flowers; (2) Did he promise a full tank of fuel; (3) Did he agree that there could have been confusion in understanding between "a full tank of petrol" and "£20 's worth of petrol" and (4) The

Complainant heard him say that he had received a free tank of fuel from Tesco's – had he actually said that?

Councillor Stephen Mayzes responded to those questions along the following lines: (1) Not in those words, flowers and alcohol had been offered to Ms White in response to a previous complaint that she had with Morrison's. He had spoken to Morrison's in relation to a donation of fuel for a hire van to which the Manager had agreed and had confirmed at the same time that the flowers and alcohol would still be provided to Ms White; (2) A tank yes but the amount of fuel was not specified; (3) Yes – due to the number (about five) of people who had been involved; and (4) This was untrue and he did not know where this had come from.

Councillor Honeywood then stated that, in his opinion, it had not been acceptable if it was the case that Councillor Stephen Mayzes had not been given full details of the complaint by the Investigator because he had not asked for it. In response, the Monitoring Officer reiterated that the Complaint Form with all the details of the complaint were always sent to the Councillor together with any further communications received unless the correspondent specifically requested her not to do so. Mr Holt also stated that no new information had arisen at the time the interview was conducted.

Councillor Johnson then asked questions of Councillor Stephen Mayzes in respect of: (1) Why did he not want the interview to be recorded; (2) Why would the Complainant want to make up her complaints; and (3) Why did he not hand the mobile phone back to the Complainant to talk to the Manager from Morrison's.

Councillor Stephen Mayzes responded to those questions along the following lines: (1) He had no real reason but he had decided not to; (2) He did not know why. He had agreed to broker a deal for fuel but the amount was not specified and he believed that there had been a breakdown in communications due to the number of people involved; and (3) That had been his intention but the Manager had hung up before he could do so.

Councillor Hawkins asked Councillor Stephen Mayzes why he had taken so long, that is, up until Councillor Stock's question, to state that he had not lied and that surely he should have stated that categorically from the start. Councillor Stephen Mayzes responded by stating that he had not done so in his first apology as it was at the informal resolution stage and that he had a positive frame of mind and he did not want to use a strong, negative word such as "lie" in that first apology.

Councillor Nicholls then asked questions of Mr Holt in respect of: (1) Had he contacted the other people referred to in the complaint and Councillor Stephen Mayzes' evidence; and (2) Did he not feel it important to contact them to substantiate and corroborate the complaint.

Mr Holt responded to those questions along the following lines: (1) He had received, as part of the information provided to him by the Complainant, two letters from other individuals (Mrs Mowatt and Mrs Symonds) but he had not conducted any interviews with them; and (2) He had not felt it necessary as he had sufficient information already.

Mr Holt then summed up his evidence by stating that the Complainant was not vindictive or delusional in his opinion; that he had investigated impartially and had dismissed the fourth complaint of publishing confidential Council minutes as it was factually incorrect and that this had been accepted by the Complainant upon receiving his draft report.

Councillor Stephen Mayzes then summed up his evidence by stating that he had been a Councillor for nearly eight years and had not previously received a complaint against him. He stood by his record as a Councillor; he had no reason to act in the way that he had been accused of and that the evidence had shown that all five complaints were unproven.

The Committee then retired to deliberate. The Monitoring Officer also accompanied them to advise on any legal points raised.

Upon returning to the Council Chamber, the Chairman (Councillor White) informed all persons present that Councillor Honeywood had had to leave the meeting. He also stated that questions had arisen during their retirement that needed clarification. The Chairman then asked the Monitoring Officer to raise the points of clarification. Mr Holt was asked if it was correct that he had not passed the letters received from Mrs Mowatt and Mrs Symonds to Councillor Stephen Mayzes. Mr Holt replied that this was correct.

At the Monitoring Officer's suggestion, Mr Holt then read out the contents of Mrs Mowatt's and Mrs Symonds' letters. The Chairman then adjourned the meeting for a short while to enable Councillor Stephen Mayzes to read those letters and formulate his response.

Councillor Stephen Mayzes then stated that he felt that the letters were inconsistent. In respect of Mrs Mowatt's letter he stated that it confirmed that Ms White was dealing with Morrison's on a private matter and that she asked if the flowers could be exchanged for £20 of fuel. He stated that he had walked away with the mobile phone as the Community Hall was full of people and he needed to be able to hear above the noise of 30+ people sorting through hundreds of bin bags of donated clothes etc. In respect of Mrs Symonds' letter Councillor Stephen Mayzes noted that it stated that he had helped four affected families. He also read out minutes of an 'Admin Group' meeting that, in his opinion, proved there had been confusion and miscommunication within the Group. Overall therefore, he felt that those letters further highlighted that Ms White's complaint was without merit.

The Committee then retired once more to deliberate. The Monitoring Officer again accompanied them to advise on any legal points raised and to record the decision. During this retirement the Independent Person (John Wolton) was requested to join the Committee and be consulted, as required by law, on the action the Committee proposed to take.

Following such deliberations the hearing resumed.

RESOLVED that the unanimous decision of the Committee be as follows:-

"That the Committee having considered the content of the Investigation Report, the evidence and the submissions which were presented to them at the hearing and taking each element of the complaint in turn and referring to page 55 of the agenda:

Complaint 1:

The Committee unanimously found that Councillor Stephen Mayzes did mislead the community group, when making reference to the tank of fuel to be provided by Morrison's and in doing so, contravened the Accountability Principle of Public Life, which is set out as follows:

"Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this."

And, also found to have breached paragraph 3.4 (a) of the Members' Code of Conduct by *"acting in a manner which could reasonably be regarded as bringing his office or the authority into disrepute"*.

Complaints 2 to 5:

These were not found to be proved.

Reasons:

The reasons why the decision of the Committee contradicts with that of the Investigator's findings and the views of the Independent Person and Monitoring Officer were due to the additional and new evidence presented at the hearing. The last minute presentation of evidence by Councillor Stephen Mayzes led to bringing the Council into disrepute.

Councillors are accountable for their actions which would include putting themselves into a position of such a misunderstanding arising.

Councillor Stephen Mayzes was then asked whether he wished to add anything before the Committee considered the sanctions and no representations were made.

The Committee then retired once more to deliberate and consider the range of sanctions available under Section 8 of the District Council's Complaints Procedure being mindful that any sanctions must be relevant and proportionate and necessary to promote and maintain high standards of conduct.

The Committee **RESOLVED:**

- (1) That the Committee's findings in respect of District Councillor Stephen Mayzes' conduct be published on Tendring District Council's website;
- (2) That the Committee's findings and outcome of the hearing be reported to the next meeting of full Council for its information; and
- (3) Recommend strongly that Councillor Stephen Mayzes apologises to the Complainant for creating the circumstances under which the breach of the Code of Conduct has occurred. The Committee suggests to Councillor Stephen Mayzes that he consults with the Monitoring Officer on an appropriate form of words.

The meeting was declared closed at 2.30 p.m.

Chairman