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Standards Committee Meeting on 16 May 2024

Hearing of Code of Conduct Complaint – Decision Record

Subject Member: Cllr Nick Turner

<p>Case: Concerns a complaint received in August 2023 from Cllr Ernest Gibson of South Tyneside Council. Cllr Gibson was (and is) the Chair of the Local Government Association’s Coastal Special Interest Group (SIG) and presided at meetings of that Group’s meetings on 5 and 23 June 2023. Those meetings were held online.</p>
<p>The complaint is set out in the Investigator’s report at page 37 of the Report to this meeting as referenced at agenda item 7.</p>
<p>In addition to the Investigator’s report, on behalf of this Council’s Monitoring Officer, the Council received witness interview notes with the complainant, Sidonie Kenward of the Marine Management Organisation, Beccy MacDonald-Lofts as the lead officer for the SIG, Ross MacLeod of the RNLI, Rhys Hobbs of Cornwall Council, Cllr Derek Bastiman of North Yorkshire Council (who is also Deputy Chair of the relevant SIG), Alysha Stockman of East Suffolk Council, Cllr Noel Galer of Great Yarmouth Borough Council, Nick Hardiman of the Environment Agency and Cllr Nick Turner (the subject member of the complaint) from this Council.</p>
<p>The Committee also received two reports from the Council’s Monitoring Officer, referenced at Agenda Items 5 and 7 respectively. The report at Agenda Item 5 provided the Committee with more generalized information around the complaint and the process to the meeting today. That report included the Code of Conduct, the Council’s complaints procedure in respect of the code, the hearing procedure and the Local Government Association’s Guidance on the Code of Conduct. The report at Agenda Item 7 included further detail of the specifics of the complaint and advice and guidance.</p>
<p>The defence submission from the subject member has been provided to the Committee together with questions posed by him to Beccy MacDonald-Lofts and her responses to those questions.</p>
<p>Through today’s hearing the Committee has also received oral evidence through statements made to it, responses to questions and the views of its Independent Person.</p>
<p>The Committee has considered all of these documents and oral evidence as part of its role in reviewing whether the subject member was acting in an official capacity to which the Code applies and, if that was the case, whether there had been breaches of the Code as described in the material presented to the Committee.</p>

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Facts:
The crux of the complaint concerns interventions by the subject member at meetings of the Local Government Association's Special Interest Group (SIG) on 5 and on 23 June 2023. The SIG was attended by many representatives (Councillors and Officers) from a range of coastal authorities who, like this Council, were Members of the SIG. The meetings were also attended by representatives of other agencies, authorities and national organisations with an interest in/who contribute to the work of the SIG. Certain of the interventions from the subject member at the meetings were stated, in the complaint and through the investigator's report, to have breached the Councillor Code of Conduct adopted by this Council.
The breaches of the Code were stated as being of the General Conduct paragraphs 1.1, 1.2, 2.3 and 5.1 of that Code.
At page 25 of the report to the Committee in support of Agenda Item 5, the Monitoring Officer confirmed that the Councillors' Code of Conduct of Tendring District Council had been adopted on 22 November 2022 (with a commencement date of 23 May 2023). On page 25 of the report of the Monitoring Officer at agenda item 5, the Committee was informed that the subject Member had attended mandatory training on the Council's Code of Conduct on 21 June 2023.
Prior to this complaint being considered now by the Committee, there had been no complaint about the subject member and his language and behaviours at meetings of the SIG.
The subject member has stated that at the meeting on 5 June 2023 of the SIG, he apologised and left the meeting. He also states that he apologized unreservedly in respect of his interventions complained of at the 29 June meeting of the SIG. Following the complaint being received, the subject member resigned from the SIG and subject member apologised unreservedly for any offence given upon the complaint being passed to him.
View of the Independent Person
The Committee acknowledges the view provided to it of the Independent Person during this hearing.
Decision of the Committee
Based on the balance of probabilities and the evidence available, the Committee concludes and decides that:

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The subject member was acting in official capacity in his attendance at the meetings of the SIG on 5 and 29 June 2023;		
In reaching this conclusion, the Committee is satisfied that it has received evidence of:		
* This Council being a member of the SIG,		
* The Council paying the subscriptions required for membership of the SIG,		
* The sole Member of the Council in attendance at the meetings of the SIG being the subject member,		
* The subject member recognized membership of the SIG on his general interests form,		
* The subject member making a claim for travel expenses on official business to attend a SIG event (prior to the complained of meetings),		
* There was a general acceptance of representation by all concerned at SIG Meetings, and		
* That, in response to the complaint, the subject Member resigned from the SIG.		
The Committee then find, as a matter of fact, that the subject member's conduct amounted to a relevant breach of the Code of Conduct as follows:		
Code	5 June SIG Meeting	29 June SIG Meeting
1.1 I treat other Councillors and Members of the public with respect	Here the breach amounted to behaviours to particular individuals in front of others attending the meeting and wholly disrupting the meeting as arranged. The interventions by the subject member took up a significant portion of the meeting time allocated for the meeting. This was being disrespectful to those other attendees.	Here the breach amounted to behaviours to particular individuals in front of others. Here he failed generally to respect others who were in attendance.
1.2 I treat Local Authority employees, employees and representatives of partner organisations, and those volunteering for the local authority with respect and respect the role they play	Here the breach amounted to attacks in a personal way on two of those who attended the meeting. The two individuals were Mr Nick Hardiman representing The Environment Agency and Beccy MacDonald Lofts as the Lead Officer for the SIG)	Here the breach was the subject member's lack of respect by attacking a representative of an external organisation in a personal way. The representative here was Ross MacLeod of the RNLI.

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2.3 I promote equalities and do not discriminate unlawfully against any person		Here the breach was the use by the subject member of inappropriate language referencing a number of group characteristics that were taken to be offensive to those groups and this was not promoting equalities.
5.1 I do not bring my role or local authority into disrepute	By acting as he did, as set out above, the subject member also brought this Council into disrepute. It is noteworthy that there was evidence that certain representatives were considering leaving SIG.	By acting as he did, as set out above, the subject member also brought this Council into disrepute.

<p>Each separate finding of a breach of the Code of Conduct was then assessed against Article 10 of the European Convention on Human Rights to determine whether the breach (on the face of it) constituted an infringement of the subject member's rights under that Article. The Committee concluded that there was no such contravention of Article 10.</p>
<p>However, the Committee also considered that - if there was a breach of Article 10 in any one of the breach areas - the consequential restriction on the subject member from the finding involved one which was justified by reason of the requirement of article 10 subparagraph 2.</p>

The above constitutes the decision of the Committee, however, the Committee also would wish the following to be read into the record:

It is noted that the subject member offered an apology at the meeting of the SIG, upon receipt of the complaint and during the interview with investigator appointed by the Monitoring Officer.

The Committee recognises the years of public service undertaken by the subject member on this Council and in raising significant matters of public policy. Nothing in this hearing should seek to undermine that legacy. We do not consider that there was a conscious discriminatory intent by the words used at the meeting on 29 June of the SIG.

We believe the points being made, by the subject member, could have (and should have) been made in a different way and that alternative language and behaviours could

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have made the points the subject member states he wanted to make; whether that was around policies to permit coastal retreat, the safety of sea users as a consequence of the closing of RNLI boat stations and the safety of different groups when going swimming in the sea.

The Committee does not consider any alleged failings by the SIG chairmanship/secretariat should excuse breaches of this Council's Code of Conduct for Members.