

# CONDUCT COMMITTEE



**14 JUNE 2016 - 2:00PM**

**PRESENT:** Councillor Miss S Hoy(Chairman), Councillor C Boden(Vice-Chairman), Councillor M J Humphrey, Councillor D Mason, Councillor R Skoulding, Councillor N Russell, T Gambell, Councillor Donnelly.

**APOLOGIES:** C Hawden-Beal

**OFFICERS IN ATTENDANCE:** Anna Goodall (Head of Legal & Governance and Deputy Monitoring Officer), Tom Lewis (Deputy Monitoring Officer), Jane Webb (Member Services & Governance)

## **CND1/16 APPOINTMENT OF CHAIRMAN FOR THE MUNICIPAL YEAR.**

Councillor Sam Hoy was appointed as Chairman of the Conduct Committee for the Municipal Year.

## **CND2/16 APPOINTMENT OF VICE-CHAIRMAN FOR THE MUNICIPAL YEAR.**

Councillor Boden was appointed as Vice-Chairman of the Conduct Committee for the Municipal Year.

## **CND3/16 TO CONFIRM AND SIGN THE MINUTES OF THE MEETING OF 20 OCTOBER 2015 (10:00AM)**

The minutes from the meeting of 20 October 2016 (10:00am) were confirmed and signed.

## **CND4/16 TO SIGN AND CONFIRM THE MINUTES OF THE MEETING OF 20 OCTOBER 2015 (12:30PM)**

The minutes from the meeting of 20 October 2016 (12:30pm) were confirmed and signed.

## **CND5/16 INITIAL CONSIDERATION OF A MEMBER CONDUCT COMPLAINT – COUNCILLOR JOHN CLARK**

Members considered a complaint under the Member Code of Conduct against Councillor John Clark of Fenland District Council and were informed that:

- A complaint had been raised by Mr Alan Gowler about the conduct of Councillor Clark;
- Councillor Clark had been offered the opportunity to provide an initial written response to the complaint; together with a further submission received from Mr Gowler whilst an informal resolution to the complaint was sought;
- This information together with an article referred to by Mr Gowler from the Cambs Times was considered through the Conduct Committee's pre-screening process. The panel of the Chair of Conduct, Independent Person and Deputy Independent Person determined that it was appropriate for the complaint to go forward for consideration by Conduct Committee as they felt a breach of the Code of Conduct may have occurred;
- The Conduct Committee is asked to consider the complaint and determine if it discloses a likely breach of the Member Code of Conduct.

The Chairman, Councillor Sam Hoy stated the three stages to determine:

1. Was Councillor Clark acting as a councillor at the time of the response. If it was considered he was not then this would be the end of the process; if it was considered that he had then there would be a need to take the complaint to the second stage.
2. To determine if Councillor Clark did breach the Code of Conduct and if it was considered that he had then this would progress to the third stage.
3. To decide if the committee had enough information to make a determination or was there a need for further investigation.

Councillor Sam Hoy asked the committee for their comments regarding whether Councillor Clark was acting in his role as a Councillor.

- Councillor Mason stated that the complainant had approached Councillor Clark in his capacity as a Councillor and therefore he had taken on the issue as a councillor;
- Councillor Boden stated that on the evidence before them, the only reason the resident had contacted Councillor Clark was because he was the Leader of Fenland District Council, not even as a local councillor, therefore it was clear that he had acted in his position as a Councillor; subsequently he may not have acted as a Councillor with regard to his lease; but the information he had obtained regarding the evidence was in his role as a Councillor;
- Councillors Skoulding, Humphrey, Donnelly, Russell and Tina Gambell all agreed with Councillor Boden.

Councillor Sam Hoy stated it was clear the committee felt that Councillor Clark had acted in his role as a Councillor and therefore there was a need to progress to the second stage as to whether Councillor Clark had breached the Code of Conduct.

**It was AGREED that Councillor Clark was acting in his capacity as a Councillor.**

The question was asked as to whether a third party could bring in a complaint. Tom Lewis, Monitoring Officer, explained that the Conduct Committee had been set up following the Localism Act and was there to provide reassurance to the electorate within the District that standards were maintained and therefore to preclude that electorate from raising a concern would be against the spirit of the act, which was why this was at committee today.

Councillor Sam Hoy asked the committee for their comments regarding whether it was felt that Councillor Clark had breached the Code of Conduct.

- Councillor Boden stated the committee needed to look very carefully at the timeline and allegations as to when Councillor Clark had been contacted by the resident as he did not believe that it was necessary for Councillor Clark to have had to declare he was the owner of the land; there was nothing in the Code of Conduct requiring that declaration to have been made. Councillor Clark had then handed the issue over to the Portfolio Holder for Planning therefore from the Council's actions it was appropriate. However, Councillor Clark then used the information provided in his capacity as a Councillor to deal with the tenant, which he had the right to do as a private landlord but breached the Code of Conduct by informing his tenant of who had made the complaint. Councillor Clark had admitted he breached the Code of Conduct and that he had not taken the most appropriate course of action and has since offered an apology to the resident.
- Councillor Boden was concerned over the allegations that had been made stating that Councillor Clark had used the information for personal gain and he could see no justification of this within the evidence therefore there had been no improper use of confidential information to promote personal interest. With regard to a breach of the Data Protection Law; that was outside the scope of the Conduct Committee and if necessary dealt with through other channels. Councillor Boden stated that he could only see one area that needed to be considered and that was the fact that the identity of the resident had been exposed.

- Tina Gambell, Independent Person, agreed with Councillor Boden's comments and stated that she felt very strongly and frustrated that this had happened as so often Councillors in Fenland were criticised for their actions; it was important to be squeaky clean and transparent and the fact that he had released the information did nothing for the public confidence in the Councillors of Fenland District Council. Councillor Skoulding agreed with Tina Gambell.
- Councillor Boden stated he could see how this would have happened as Councillors are always receiving complaints, often involving neighbours and it can be impossible to avoid stating where the complaint originated from; but this does not exclude the issue, there was a potential breach of the Code of Conduct and therefore this issue should progress to the next stage.
- Councillor Humphrey agreed with Councillor Boden stating that by Councillor Clark's own admission he had breached the Code of Conduct.

Councillor Sam Hoy stated that it seemed the consensus of the committee was that Councillor Clark had breached the Code of Conduct by way of revealing the identity of the complainant.

**It was AGREED that Councillor Clark had breached 4.1 of the Code of Conduct - You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature.**

Councillor Sam Hoy explained this now needed to progress to the third stage which was to ascertain if the committee felt they had enough information to make a decision today as to whether the hearing is finished, a sanction needed putting in place or further investigation is required. Councillor Sam Hoy asked for comments from the committee.

- Councillor Skoulding stated he would like further information as he felt there was a more underlying issue.
- Councillor Boden stated that one issue was the release of the name of the resident to the tenant of Councillor Clark and with regard to this issue there was an admission from Councillor Clark and because of that there was no need to investigate to see if there has been a breach of the code of conduct; the words in the report spoke for themselves
- Councillor Mason stated it had not been disputed by Councillor Clark therefore in terms of a breach this was an open and shut case.
- Councillor Hoy stated that by Councillor Clark's own admission he did act incorrectly and that it would not happen again then she was unsure as to what could be gained by any sanctions; Councillor Clark had been very accepting of what had happened and an investigation would only draw the issue out for both parties therefore in her opinion a further investigation would make more of an issue of the complaint.
- Councillor Boden suggested an investigation was needed to see if a breach had been made;
- Councillor Donnelly asked what the consequences were of Councillor Clark releasing the information to which Councillor Boden stated this was why the committee needed more information.
- Councillor Boden commented that the only benefit of further investigation would be in terms of mitigation and the mitigation that would be likely is that an apology has been given and this showed that some action had been taken which can be deemed and taken by the committee when deciding mitigation; if anything it would require an apology and the fact that this had already been given.
- Councillor Hoy added that the question regarding an apology had been asked at the pre-screening meeting but the person who make the complaint could not accept the apology as it was not their information that had been shared.
- Tina Gambell was concerned that an apology was not enough; which was why this was brought forward by the complainant as he had been concerned about how councillors were being perceived.

Councillor Hoy asked the panel if they agreed that this complaint did not need further investigation. The panel members all agreed that this complaint did not require further investigation.

**It was AGREED that the panel did not need a further investigation in order to decide if any sanctions would be appropriate.**

Councillor Hoy explained the next stage involved a number of sanctions that could be imposed on Councillor Clark; these included:

- A Formal Letter of Reprimand
  - A Motion of Censure
  - Report to Full Council
  - Training
  - Withdrawal of facilities
  - Exclusion from Council offices
  - Publication of a formal notice
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- Councillor Mason stated he felt that training would be insulting to Councillor Clark because of the position that he held and therefore was not necessary;
  - Councillor Boden explained that when a Councillor breaches the Code of Conduct, consideration should be given to training; however as Councillor Clark has already made an apology, understood what he did wrong and recognised that he had made a mistake, he did not think that training was appropriate.
  - Tina Gambell stated that although Councillor Clark had owned up to his mistake it needed to be qualified further and in her opinion she thought that a Notice of Breach in the paper showed that this was unacceptable and Conduct Committee would publicise these breaches
  - Councillor Donnelly agreed with Tina Gambell's comments, as did both Councillor Skoulding and Councillor Humphrey;
  - Councillor Boden stated the Conduct Committee could impose a Formal letter of Reprimand or A Motion of Censure;
  - Tina Gambell stated that the public needed to see a Notice in the paper
  - Councillor Hoy stated the committee could sanction a Letter of Reprimand as the press were present and therefore it would not be necessary to do an additional press notice;
  - Councillor Skoulding stated there was a need for this to be placed as a notice in the paper;
  - Councillor Humphrey added that the Conduct Committee had placed this sanction in previous meetings.

Councillor Hoy stated that it appeared the committee wanted to place a Formal Notice of Breach in the paper. Tom Lewis, Monitoring Officer, explained this was a general notice to record that conduct had considered the complaint and decided that a breach had taken place on the basis of the release of information.

- Councillor Humphrey stated that the committee had to consider the view of the Independent person and the committee should follow her decision.
- Councillor Russell agreed with Tina Gambell's comments.
- Tina Gambell added that a public notification should be one of the most relevant sanctions to most complaints because it meant that the Council were informing the public of the outcome of the investigation which helped with transparency.

Councillor Hoy asked all voting members if they were in favour of the proposed publication; to which they all agreed.

**It was AGREED that Formal Notification of Breach be published in a newspaper circulating in the area.**