

Agenda Item No:	5	
Committee:	Conduct Committee	
Date:	5 October 2017	
Report Title:	Initial Determination of a Member Conduct Complaint – Councillor Kit Owen, March Town Council	

1 Purpose / Summary

To make an initial determination of a complaint under the Member Code of Conduct against Councillor Kit Owen of March Town Council

2 Key issues

- A complaint has been raised by Martin Field about the conduct of Councillor Kit Owen at a meeting of the March Christmas Lights Committee on 19th June 2017.
- The original complaint from Martin Field and the response from Councillor Owen are attached. An informal resolution was not possible on this occasion.
- The information within this paper was considered through the Conduct Committee's pre-screening process. The panel of the Chairman of the Conduct Committee, 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. A note of this meeting is included in the pack.
- The original complaint was in two parts; part one of the complaint was dismissed, therefore the details of this part of the complaint have been redacted.
- The Conduct Committee is asked to consider the complaint and determine if it discloses a breach of the Member Code of Conduct, and if so what next steps should be taken.

3 Recommendations

- For Members to consider the complaint and response and decide what course of action to take. There are three options available to the Committee:
 1. Dismiss the complaint based on the information in the pack with no further action taken;
 2. Determine a breach has taken place and decide upon a sanction based on the information in the pack;
 3. Request an investigation to gather further information before making a decision at a hearing.

Wards Affected	All
Forward Plan Reference	N/A
Portfolio Holder(s)	

Report Originator(s)	Carol Pilson, Monitoring Officer
Contact Officer(s)	Carol Pilson, Monitoring Officer
Background Paper(s)	Member Code of Conduct

1. Background / introduction

1.1 Martin Field submitted a complaint about the conduct of Councillor Owen on the 17th July 2017. This related to Councillor Owen's conduct at a meeting of March Christmas Lights Committee on 19th June 2017 during which Martin Field states that Councillor Owen made a remark of a racist nature. Councillor Owen disputes making these comments. As with all complaints, it was attempted to resolve this matter informally, however this was not possible on this occasion.

1.2 The complaint has been considered through the pre-screening process conducted by the Chairman, Independent Person and Deputy Independent Person on the 25th August 2017. Following an extensive discussion, their decision was that a breach of the Code of Conduct may have occurred, and they have therefore referred the complaint to the Conduct Committee.

2. Considerations

2.1 Members must consider the complaint against the Member Code of Conduct.

2.2 Members must consider that the Member who is subject to the complaint (Councillor Owen) was acting in their capacity as a Councillor for the Code of Conduct to apply.

2.3 Members are able to make an initial determination at today's Committee meeting based on the information within the report.

2.4 If Members do not consider there is a breach of the Code of Conduct or that there is no reasonable prospect of any breach being disclosed or that the complaint does not merit further investigation or that the investigation would not disclose new information then no further action is taken in respect of the complaint save for notifying the Member and the complainant.

2.5 If Members are minded to make a decision today based on the information held in the agenda pack that a breach of the Code of Conduct has occurred then the following sanctions are open to the Committee as set out in the Council's Constitution:

- Formal letter of reprimand;
- Motion of censure at the Conduct Committee;
- Recommendation to Full Council (or the Town or Parish Council) for a motion of censure;
- Formal request to the Members Group Leader for their removal from Committee(s);
- Offer additional training for the Member;
- Withdraw facilities (or recommend to the Town or Parish Council) that facilities such as computers, email, or internet access be suspended for a period of time;
- Exclude (or recommend to the Town or Parish Council) the Member from the Council's offices or other premises or restrict access to certain officers; excepting access as necessary for the attendance at meetings of the Council, Committees or Sub-Committees;
- Publication of formal notification of breach in a newspaper circulating in the area.

2.6 Where Members consider that there is a reasonable prospect that a breach of the Code of Conduct has occurred they can give consideration as to whether or not there should be an investigation of the complaint where further evidence or detail can be sought.

2.7 Members should consider the following points in determining whether an investigation should occur:

- Has the Complaint already been investigated, or is it already the subject of investigation?
- Is the Complaint more appropriately dealt with through another regulatory channel?
- Is the complaint about something which happened so long ago that there would be little benefit in taking action now?
- Is the complaint too trivial to warrant further action?
- Does the complaint appear to be malicious or simply tit for tat?

2.8 Where Members consider that an investigation is appropriate the Monitoring Officer, in consultation with the Chairman of the Committee and the Independent Person will define the scope of an investigation and be asked to make suitable arrangements for such an investigation to be carried out.

2.9 Members are asked to give any particular comments on the scope or direction of the investigation if necessary.

3. Recommendations

- For Members to consider the complaint and response and decide what course of action to take. There are three options available to the Committee:
 1. Dismiss the complaint based on the information in the pack with no further action taken;
 2. Determine a breach has taken place and decide upon a sanction based on the information in the pack;
 3. Request an investigation to gather further information before making a decision at a hearing.

Document 1 - Complaint regarding Councillor Kit Owen from Martin Field

My complaint about Councillor Kit Owen is that he has brought himself and the Town Council into disrepute by behaving in a [REDACTED] racist way at a public meeting.

[REDACTED]

Later during the meeting, it was being discussed who should be providing the refreshments for those helping out at the Christmas Lights switch on. Various suggestions had been made then Kit said "We should ask a Muslim because they all have sharp knives." No other reference had been made to knives or Muslims at the meeting. He has muttered such things under his breath before at council meeting and I have questioned him about it before.

I immediately challenged him and told him he was being deeply offensive. He said "Oh, I'm sorry, but who have I offended?" I told him "Humanity". His apology was clearly not entirely whole hearted and an apology is of no use if he does not intend to change his behaviour. Later after the meeting was over he said "I'm clearly not going to be allowed to have any fun with you around" which suggests that he considers racism [REDACTED] simply to be "fun."

After the meeting a member of the committee, not a councillor, caught up with me as I was leaving and thanked me for challenging Kit over this. "He has been getting away with behaving like that for too long" he told me.

At the town council meeting where I raised this behaviour, expecting him to be admonished for his behaviour, he once again behaved as though I was simply spoiling his fun. Although he repeated an apology, and a note was added to the minutes that "all councillors were reminded not to be racist or sexist" (who would have thought such a thing needed to be stated?), he has made no commitment to not behave like this again. I am concerned that he will bring the council into disrepute again.

I believe he has breached the Council's Code of Conduct in regards to the following Clauses

3. General obligations

3.1. You must treat others with respect.

3.2. You must not:-

(a) do anything, which may cause the Authority to breach UK equalities legislation.

(e) conduct yourself in a manner, which could reasonably be regarded as bringing your office or authority into disrepute.

My concern is that he has brought the Council into disrepute with his behaviour, not just within a council meeting in front of other councillors but in front of members of the public. Furthermore, if he holds these attitudes about [REDACTED] Muslims and shares them in a public forum, then his decision making when [REDACTED] Muslims are involved in the process or outcome is compromised. We live in a diverse community whether he likes it or not, and he is supposed to represent everyone, no matter their [REDACTED] ethnicity, equally.

I believe that, at the very least, as a consequence of his actions he should make a public statement to this effect; that he has considered his behaviour, agrees that it was unacceptable and undertakes not to make racist, [REDACTED] or otherwise offensive comments again whilst he is a councillor, on any occasion where he is a public representative. He could do this at a meeting of the Town Council where it should be an agenda item and minuted so there is a record to which he can be held to account should he behave in this way again.

I hope that you will seriously consider my complaint, which is not one I have made lightly.

Document 2 – Cllr Owen response to Martin Field complaint

1st August 2017

Dear Carol,

I am very disappointed that I am having to respond to what I believe is a vexatious and politically-motivated complaint.

However, I will respond in the two parts as follows:

[REDACTED]

2. With the second point, I have to query Councillor Field's version of events. I concur that he raised the matter at the 3rd July 2017 Main Council Meeting. However, his story varied during the telling thereof. When questioned by Councillor Jan French about the incident, two major points arose:
 - a. Councillor Field would not state the words he was offended by.
 - b. Councillor Field stated that the words were made outside of the meeting and not during the meeting.

Because of these anomalies, witnessed by nine other Councillors (Jan and myself excluded), the Town Clerk stated that he could not minute the complaint but would, at Councillor Field's request, merely remind Councillors that they should not make racist or sexist remarks.

At that meeting, I did apologise to him if I had offended him in any way, although I also added that I didn't know how I had offended him if he would not repeat what I was supposed to have said.

It appears that Councillor Field is now stating that the incident, which I contest, took place within the meeting. How can he state at a Main Town Council Meeting that the comment was made outside of a meeting and yet lodge a complaint to Fenland District Council claiming the opposite? His accurate recollection of the event has, at the very least, to be called into question.

All Councillors that I have spoken to concerning this matter back my version of events and, therefore, I believe that these complaints should be thrown out forthwith.

Kind regards,

Kit Owen (Cllr.)

Document 3 – Further clarification to the response from Cllr Owen

2nd August 2017

Dear Carol,

I thought I had been crystal clear in my previous response.

The penultimate paragraph of my last correspondence states, and I quote, “It appears that Councillor Field is now stating that the incident, **which I contest**, took place within the meeting”.

In my opinion, the phrase “which I contest” means that I do not agree with the claim made by Councillor Field and I will contest / dispute / argue against / disagree with his assertions concerning the purported statement made.

Additionally, and more importantly, he has publicly declared at the Main March Town Council Meeting of 3rd July 2017 that this disputed statement was made outside of a Christmas Lights Sub-Committee Meeting of 19th June 2017, whereas he has now completely changed the story in his complaint to you. If you require proof or clarification on this point, I am certain that other Councillors or the Town Clerk can confirm that Councillor Field did make this admission at the 3rd July 2017 Main March Town Council Meeting.

If he is so blatantly incorrect in one part of his complaint, how can there be any credence given to any of it?

Kind regards,

Kit Owen (Cllr.)

Document 4

Contemporaneous note from pre-screening of complaint against Councillor Kit Owen, March Town Council – 25/08/2017

Present: Tina Gambell, Independent Person, Claire Hawden-Beal, Deputy Independent Person, Councillor Sam Hoy, Chairman of Conduct Committee, Carol Pilson, Monitoring Officer (in an advisory capacity.)

Declaration of Interests:

Councillor Hoy made everyone aware that Councillor Kit Owen is a Conservative District Councillor and is therefore known to her. However, this would not influence the way she approached this matter and she was able to approach the complaint with an open mind based on the information contained within the papers on the complaint.

Decision:

There were two clear parts to this complaint. [REDACTED] part two is in relation to racism.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Part 2 – Racism

Following an extensive discussion, there was a unanimous decision to uphold this part of the complaint as it was felt the Member Code of Conduct may have been breached.

The reasons for this decision were:

1. It was noted that Councillor Owen disputes that he made these comments. However, the panel felt that it could not, at this stage, dismiss this part of the complaint as the Code may have been breached.
2. The panel acknowledged it was difficult to make a determination when it is one person's word against another. In future, in cases such as these, the Monitoring Officer will ask for supporting statements from witnesses via the Member or complainant.
3. The comments, if made, were harmful and in extremely poor taste. It is important that all parts of the community feel that they can approach their local Councillor, and comments such as these are not acceptable.
4. The fact that these comments, if made, were during the course of a public meeting with other Councillors and members of the public present was evidence Councillor Owen would have been acting in his capacity as a Councillor.