

CONDUCT COMMITTEE



20 FEBRUARY 2014 - 10:00 AM

PRESENT: Councillor F H Yeulett (Chairman), Councillor M J Humphrey, Councillor R Skoulding, Councillor W Sutton, Councillor D Mason, Ms A Hay.

APOLOGIES: Councillor N Russell

OFFICERS IN ATTENDANCE: Alan Pain (Corporate Director & Monitoring Officer), Tom Lewis (Deputy Monitoring Officer), Jane Webb (Member Services & Governance Supervisor)

CND13/13 TO SIGN AND CONFIRM THE MINUTES OF THE MEETING OF 7 NOVEMBER 2013

Councillor Yeulett welcomed Councillor Mason to his first Conduct Committee.

The minutes of the meeting of 7 November 2013 were confirmed and signed.

Alan Pain updated Members on the points raised from the previous minutes:

- Co-opted Members being able to vote - This has been looked into and unfortunately it stands as per the previous report. The Conduct Committee was set up under the Localism Act and therefore co-opted Members are not given voting rights; although do bring a great deal of experience to the committee. The legislation does not allow the Committee to grant voting rights to co-opted Members; this is a common issue with other authorities. Members agreed that it was a shame they could not have the right to vote as they are invited to sit on the committee. Under the previous Standards Board, legislation allowed all Members full voting rights. It was suggested it would be prudent to draft a letter to the local MP to see if legislation can be changed as all Members on the committee felt this was wrong. It was suggested that some weight be given to co-opted members views so that these are not lost in any vote that is taken to which the Chairman stated that when discussions take place it would be essential to draw out their views;
- Sanctions that come from Conduct Committee - The sanctions available to the Conduct Committee again stem from the Localism Act. The previous Standards Committee had a broader range of sanctions but the change in legislation limited sanctions to those ones available to Conduct Committee that are contained in the Constitution.
- Complaint regarding the Wisbech Town Clerk - This complaint had originally been deferred by the Committee as it had regard to an ongoing investigation by Wisbech Town Council which has now concluded. Mr Murat has asked if the Conduct Committee would reconsider his complaint. Presently officers are attempting to clarify if Mr Murat is pursuing his grievances by any other means of regress, ie employment tribunal. Alan Pain as Monitoring Officer reminded Committee that complaint can be considered even if an employment tribunal is ongoing. Councillor Skoulding stated he would be happier if the complaint was left until it is clarified that he is not taking it any further to which Councillor Sutton agreed stating that whilst this complaint was in another arena then it would be best for the Conduct Committee to wait. Councillor Humphrey stated that all the evidence had already been presented and was in the public domain and therefore it would make no difference if the complaint was heard at the same time a possible employment tribunal was taking place. Ms Hay stated that she would be inclined to see if Mr Murat does take his

complaint further as he may use the decision of the Conduct Committee to influence the outcome. Councillor Yeulett noted the Monitoring Officer's advice but stated the Conduct Committee would wait until all the facts have been received before the complaint is taken any further forward but giving due regard to timeliness. The Chairman summarised the views of the majority of Members, that Committee needs full knowledge and it is possible that something could come out of an employment tribunal that is thought to be relevant. Councillor Yeulett asked if a formal request had been received from Mr Murat to which Alan Pain stated that it had and he was pressing for the Committee to hear the matter, which is why the question had been raised. Councillor Yeulett asked if Members were in agreement that a letter be written to Mr Murat to inform him that the Committee will wait for the full facts of any other investigation to emerge before proceeding, to which everyone agreed.

CND14/13 MEMBERS TO DECLARE ANY INTERESTS UNDER THE LOCAL CODE OF CONDUCT IN RESPECT OF ANY ITEM TO BE DISCUSSED AT THE MEETING.

Councillor Skoulding stated he had known Councillor Connor since the age of five, they were born down the same road, Elliot Road in March. He stated he did not socialise with Councillor Connor, although he did attend his wedding as it was held at his hotel.

Councillor Sutton stated he understood that Ms Oswald had suggested he should not sit on Conduct Committee to hear this complaint because of his friendship with Councillor Connor. He explained he only knew Councillor Connor from when they were elected in 2011 and had never met or spoken to him previously. In that time he had only socialised with him twice and thought him no more a friend than the other councillors at Fenland Hall.

Councillor Yeulett stated he knew Councillor Connor not only through Fenland District Council but also as a member of Cambridgeshire County Council.

Councillor Humphrey stated there was evidence before the committee from Peter Humphrey, who is his first cousin, but that he has not contact with him though his business or any planning matters. Councillor Humphrey sits on Planning Committee as a substitute and there are no issues.

Councillor Yeulett stated all the above were working relationships and was everyone happy to continue, to which all confirmed that they were.

CND15/13 MEMBER CONDUCT COMPLAINT – COUNCILLOR CONNOR

Councillor Yeulett explained that:

- The Committee is dealing with people's reputations and therefore there was a need to be as objective as possible when looking at the complaint;
- When these complaints are made Conduct Committee has an important role in terms of public perception;
- This was the first sift of papers in front of the committee and a decision is needed on whether this needs taking forward to an investigation;
- There were several documents in front of Members today with some perhaps relevant to a neighbours' dispute;
- Councillor Patrick is a Member of the Planning Committee, as is Councillor Connor;
- Councillor Connor did not take any part in the planning debate concerning Mrs Oswald's application but did speak as a resident which does meet with the Code of Conduct for Planning;
- Regarding the tweets contained in the pack, whether these are relevant is up to Members of Committee to decide.

Councillor Yeulett opened the case up for discussion:

Councillor Mason asked if this particular planning application had now been heard to which Councillor Yeulett confirmed that the application had been heard by Planning Committee and was approved; Councillor Connor did not sit on the Committee for Mrs Oswald's application but spoke as a resident. Councillor Mason stated that if Councillor Connor had not sat on the Committee for the relevant item then he was not in a position to influence the decision, therefore his conduct prior needed to be looked at.

Ms Hay stated she was concerned regarding the email from John Elworthy that explained how Councillor Connor had behaved and thought that the letter Councillor Connor had sent regarding the fencing should never have been signed as Fenland District Councillor, it should have been sent as a neighbour.

Councillor Humphrey stated:

- He shared the views of Ms Hay and added that whilst it is clear that Councillor Connor did eventually distance himself from the planning application, he did use his position to influence both Members and intimidate the applicant leading up to the planning committee;
- He was puzzled as to why Councillor Connor would sign the letter he had sent in the way he did, if it was not misuse of his position. The neighbour dispute is one that does not effect this complaint, there is obviously bad feeling between the two and Councillor Connor did handle his involvement in this badly;
- Leading up to the committee meeting, he clearly did use his position to influence Members and there is real concern over that;
- He was puzzled as to why elected Members use the social media in the way they do, especially as it has been the subject of previous complaints;
- It was important to remember that this influences how the general public perceive the behaviour of elected Members and this does show the Council in a bad light;
- Councillor Connor should have kept his distance from the beginning, he could have addressed the committee as a neighbour, but he abused his position leading up to that.

Councillor Skoulding stated he agreed that Councillor Connor should not have signed the letter as a Councillor and asked:

- If Ms Hay had spoken to Councillor Patrick regarding the situation to which she replied that she had not;
- Was it known if he spoke to anyone else on the planning committee to which Councillor Yeulett stated that no other Members had come forward;
- Had he visited the site on the site inspection bus to which Alan Pain replied stating it was understood that Councillor Connor had got off the bus at that point and separated himself from the Members.

Councillor Sutton stated:

- He took all the points raised on board about Councillor Connor using his influence;
- There was a need to bear in mind that the letter in question was dated 6 June 2013, a long time before the planning application came forward;
- Councillor Connor had called him, as a Member of the Conduct Committee, to ask his advice to which Councillor Sutton had told him that as long as he was seen to be clear and transparent, stepped away from the committee and spoke as a member of the public, then he should be fine;
- He had used the example of Councillor Curtis and the supermarket applications;
- Signing the letter as Councillor is questionable.

Councillor Humphrey asked:

- When Councillor Connor had called Councillor Sutton for advice to which he replied that he was not sure but the next he saw of it was on the Cambs website;
- Did Councillor Connor seek advice from the Monitoring Officer to which Alan Pain replied that he had asked for advice and how to approach the matter. He had also sought the advice of officers on how to withdraw from the committee and speak as a resident. Councillor Skoulding asked if Councillor Connor had taken note of this advice to which Alan Pain stated he had followed procedural advice regarding the planning matter once he had asked for it. Councillor Humphrey stated that he thought that if you were involved with in a dispute with your neighbour and a planning application came up, it would make you more wary of your conduct and in this instance that is missing.

Councillor Mason stated he agreed with Councillor Humphrey that you would distance yourself from the actual hearing and be mindful of your conduct leading up to it; there is a certain amount of intimidation beforehand and over-involvement from Councillor Connor.

Councillor Yeulett stated he agreed with most of what had been discussed; when in the public eye Members have to be doubly aware of their actions as being either/both a County Councillor/District Councillor, there is a lot of weight behind it that could be used to be slightly inhibiting or intimidating. Neighbourly disputes should be handled just between neighbours.

Councillor Humphrey stated that the subject of the letter sent by Councillor Connor was intimidating and it sets the tone even though it was sent way in advance of the application.

Councillor Yeulett stated Members needed to decide what sort of action to take forward and asked for guidance from the officers as to whether the committee could go further forward to an investigation or take action now. Alan Pain replied that if the Committee would need to decide if enough information had been received or would it be fair to allow the parties concerned to express their own views at a hearing. There were a number of options open to the committee:

- Write informally to Councillor Connor to make a few points;
- Get ready for a hearing meeting where both parties would have chance to put across their views and officers could prepare more background information, but it does seem that Members are already in receipt of most issues;
- Take no further action.

Councillor Sutton stated that if Members agreed that the main concern of the matter is that Councillor Connor signed his name as a councillor on the letter; at the previous Conduct Committee, Councillor Patrick had been before committee for the same issue, a letter was sent; therefore a letter to Councillor Connor may be the appropriate way forward.

Councillor Mason asked if there was any other information regarding intimidation to which Councillor Yeulett replied stating there was a fair amount of neighbourly dispute but aside from that he had not seen any and that the letter was central to this hearing.

Councillor Humphrey stated:

- Councillor Connor's conduct and behaviour in the whole matter does not show the authority in a good light; he did not act as you would expect an elected Member to act and it was this he was concerned about;
- He did not think it warranted a hearing but was not happy with no action being taken;
- Regarding sending an informal response, this seems a little weak in the circumstances;
- It would be logical that the Chairman of Conduct Committee and the Monitoring Officer sits down with Councillor Connor and explain through retraining.

Councillor Skoulding agreed, stating Councillor Connor had taken himself off the Planning Committee and could it be suggested that if he re-joins the Planning Committee that he receives retraining.

Councillor Mason stated that something more substantial than a letter was needed, as an informal letter may be dismissed.

Councillor Yeulett stated that Ms Hay had pointed out that this is the second time this type of behaviour had occurred and there is a need to ensure that this is brought to Members attention. Ms Hay asked if a letter had been sent previously and was there not something now in place to inform Members that they should not be signing personal letters as a Member. Alan Pain replied stating that there was now a rolling programme and that the Council had now updated the new Councillors Induction Programme to reflect this. Ms Hay stated it would be a good idea to write to all Councillors as this was now the second complaint of the same nature, to which all Members agreed this was a good idea.

Councillor Humphrey stated that at what was previously the Standards Committee a training session could be given whereby the errors of the relevant Councillor's way were highlighted but that this new Conduct Committee had to now be mindful of how it is seen in the wider context, sanctions were limited but at the same time there is a need for it to be seen to have been dealt with. Ms Hay suggested trying to gain the support of other Members. Councillor Yeulett stated that the Planning Code of Conduct (Page 17 of the report) states that Members must not do anything which may cause your authority to breach any of the equality enactments, bully any person, intimidate or attempt to intimidate any person who is likely to be a complainant and witness etc. Councillor Humphrey stated he should not have lobbied Members of the Planning Committee and therefore this was a clear breach. Councillor Mason stated he clearly tried to influence Councillor Patrick. Councillor Yeulett asked if Members were still of the opinion that a letter was the way forward and not a further investigation; to which they all agreed. Councillor Humphrey stated that Councillor Connor had brought the authority into disrepute.

Alan Pain explained that there was an option to invite Councillor Connor in for a training awareness session, this has been done historically, involving meeting the Monitoring Officer and Chairman of Conduct Committee. Councillor Yeulett asked all Members if they were in agreement with this type of action to which they stated they were. Councillor Yeulett added that he would like to strengthen the letter that is sent out, Councillor Humphrey suggested that a letter also be sent to all other elected Members to which Councillor Yeulett agreed, stating that Conduct Committee do not want more complaints on similar lines and that the letter would also back up the powers of the Conduct Committee.

Councillor Yeulett explained that the planning process is currently being looked into and was there a need for Conduct Committee to feed into that. Alan Pain stated that the Planning Advisory Service has been invited to undertake a review of planning and to draw out good practice; this will include some Member Workshops with that team and it would be an ideal opportunity to input into it. Councillor Skoulding asked for his name to be added to the training that was taking place on 4 March 2014.

Councillor Yeulett asked Ms Hay, that if as the independent person, she would like to speak to the review team, as an outside view would be good, to which Ms Hay agreed.

Councillor Yeulett clarified that there were no other points other than the actions:

- Letter to Councillor Connor;
- Letter to all elected Members;
- Independent Member to communicate with the Planning Review Team;
- Training Awareness Session for Councillor Connor.