

CONDUCT COMMITTEE

16 JULY 2015 - 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, C Hawden-Beal.

Officers in attendance: Carol Pilson (Corporate Director & Monitoring Officer), Tom Lewis (Deputy Monitoring Officer), Jane Webb (Member Services & Governance)

CND5/15 TO SIGN AND CONFIRM THE MINUTES OF THE MEETING OF 19 JUNE 2015

The minutes of the meeting of 19 June 2015 were confirmed and signed.

Councillor Hoy made a statement:

"With regard to agenda item 7 - Initial Consideration of a Member Conduct Complaint - Councillor Patrick; both Mr Gutteridge and Councillor Patrick are known to me, furthermore an issue has been raised by Councillor Patrick. I do not wish to add anything further at this stage; I will not be taking any part in agenda item 7 and at that item I will be leaving the room."

Councillor Boden made a statement:

"With regard to agenda item 7 - Initial Consideration of a Member Conduct Complaint - Councillor Patrick; I am Secretary to the North East Cambridgeshire Conservative Association and I am aware that Mr Gutteridge is a member of the North East Cambridgeshire Conservative Association, however, I do not know Mr Gutteridge personally therefore I believe I am able to take part in this item."

CND6/15 APPOINTMENT OF INDEPENDENT PERSON

Members considered the Appointment of an Independent Person report.

The recommendation was proposed by Councillor Skoulding and seconded by Councillor Boden.

It was AGREED that:

- **The report be NOTED;**
- **The report be considered by Council on 23/07/15 to appoint Tina Gambell as the Council's Independent Person.**

CND7/15 CO-OPTION OF TOWN AND PARISH COUNCIL REPRESENTATIVE

Members considered the Co-option of Town and Parish Council Representative report.

The recommendation was proposed by Councillor Mason and seconded by Councillor Humphrey.

It was AGREED that Councillor Andrew Donnelly of March Town Council be co-opted to the Conduct Committee.

**CND8/15 INITIAL CONSIDERATION OF A MEMBER CONDUCT COMPLAINT –
COUNCILLOR PATRICK**

Councillor Hoy left the room and Councillor Boden stepped in as Chairman for this item.

Carol Pilson, Monitoring Officer, presented the report.

Councillor Boden stated that one of two decisions should be made; either by making a determination on the information before the Committee or if it is believed to be appropriate, then to request that an investigation takes place.

Councillor Boden gave Claire Hawden-Beal the opportunity to speak first and asked her to be the final person to give any comments as it was important that the committee gave due weight to her comments as the Deputy Independent person.

Claire Hawden-Beale explained that her initial thoughts at the pre-sifting were that the remarks that had been made were quite disturbing and vile and there was insufficient evidence to be able to reject the complaint. It would appear that there was a history between the two parties involved and the information that was before the committee did not allow for a decision to be made which was why it had then be referred to the full Conduct Committee to see if a breach of the Code of Conduct had taken place and to determine if Mr Patrick was acting in the role of a councillor or not. Claire Hawden-Beal stated she did not have sufficient information to be able to put forward a view and therefore at the moment she was tending towards a further investigation subject to any comments from the panel.

Councillor Humphrey asked for clarification that at this point questions could not be asked of the two parties for further additional information to which Councillor Boden replied stating that not at this meeting but at an investigation this could take place. Councillor Humphrey asked for clarification as to if Mr Patrick was a councillor to which Carol Pilson responded stating that he was a Member of Elm Parish Council.

Councillor Mason stated that if an investigation was undertaken then there would be a need to go back on the thread of the Facebook conversation as the panel only had the final piece; he stated it would be helpful to ascertain more information as to how the conversation started and continued.

Councillor Skoulding agreed with Councillor Mason and stated that looking at the conversation it did look like "tit for tat" but was pleased that Claire Hawden-Beal had spoken first.

Councillor Russell stated he was not sure this should have come to committee as it looked like both parties have had an issue for a long time and he considered it "tit for tat".

Councillor Humphrey stated he was concerned that any elected Member whether acting as a councillor or not would respond to social media in this way and he was disturbed by the nature and tone of the reply to Mr Gutteridge regardless as to what had gone on previously. In his opinion, if you hold the position of being an elected member then you need to respond in the appropriate manner.

Councillor Skoulding stated the conversation had been via private messaging and therefore had not been in the public domain; Mr Gutteridge had brought it into the public domain.

Councillor Mason asked if it was known what the word stated in symbols should have been to which Carol Pilson stated that it was the symbols that were used in the conversation.

Councillor Boden stated he personally would not be approaching this committee with a view to

trying to stifle legitimate debate; however the more he thought about the conversation the less happy he had been with the words used by Councillor Patrick. He thought this should be taken seriously as the issue was that someone had spoken in an inappropriate way and sometimes autism is not treated as seriously as someone who was disabled, black, Jewish or in a wheelchair. The panel must be careful not to differentiate because if the autism element was replaced by black or Jewish then the comment would be rather worrying and in that aspect he had two concerns:

- Was Councillor Patrick speaking as a councillor or as a private individual and based on the current information this is not known; what Facebook name does he use and are there are earlier threads that may determine this;
- There was no evidence that Councillor Patrick knew Mr Gutteridge suffered from Asperger's or depression but that Mr Gutteridge had said that he would have known this as it was well known on social media in Wisbech but again there is no evidence regarding this.

Councillor Boden stated that he personally felt that further information was needed on a limited scale:

- In what capacity had Councillor Patrick made the comments;
- Did he call himself Councillor or refer to Council matters;
- There was a need to go back on the Facebook thread to see the preceding comments to give a context as to what role he was acting in as this would determine if he was breaching the Code of Conduct;
- What evidence was there that the complainant on a regular basis made it clear on social media as to what his medical condition was and can we presume that Councillor Patrick knew this.

These were dreadful comments made by Councillor Patrick, he was injudicious in what he said but whether he broke the Code of Conduct is not known until the relevant evidence was obtained.

Councillor Skoulding stated that Mr Gutteridge stating he was "glad that Garry had beaten him" with regard to the election, showed this was "tit for tat"; he realised Mr Gutteridge had health problems but that did not give him the right to be rude to another person.

Councillor Humphrey stated that he realised Councillor Boden did not want to see legitimate political debate stifled and the comment that "he was glad he was beaten by Garry" does not go over the boundaries to which Councillor Skoulding stated he thought it was a rude comment.

Councillor Humphrey stated that if someone had said that comment to Councillor Skoulding then he would not have responded in the way that Councillor Patrick did. There was a cause for concern but not enough evidence to decide either way; if this was done as a private individual then the Code of Conduct was not in force but if the conversation started as a Councillor then more information was needed.

Councillor Mason reiterated Councillor Humphrey's comments and a need to go back and ascertain what had happened previously on either side.

Claire Hawden-Beal stated this was the reason this complaint was brought before the committee as the panel were unaware of what the "straw was that broke the camel's back" was. She stated that Mr Gutteridge accepted it had been a heated debate between them but his complaint was regarding his disability being raised and if this was the case that Councillor Patrick was acting as a Councillor then it cannot be accepted; but again this information is not known.

Councillor Boden stated he would sum up what had been said:

- The panel felt they did not have all the evidence in front of them;

- An investigation was necessary to determine the conversation that took place prior to the comments made, to give them some context and this was a reasonable request;
- To determine the nature of the comments prior to this and the nature of the title Councillor Patrick used during the conversation; was it clear he was using his position as Councillor or as an individual and by investigating the context of the prior conversation it should be clearer. If this showed Councillor Patrick was acting as a private individual then there would be no point taking the investigation further but if it showed he was acting in his capacity as a Councillor then it would be necessary to examine the evidence as to whether it was widely known on social media about Mr Gutteridge's medical condition and if Councillor Patrick knew this and was referring to this when he made his comments.

Councillor Skoulding pointed out that if Mr Gutteridge had stated that he was glad Councillor Patrick had been beaten by Garry then the conversation must have taken place after he had lost his seat in the election and it was not until later that he was co-opted on to Elm Parish Council; therefore there was a gap when he was not a Councillor.

Councillor Boden suggested it be ascertained as to what date he was co-opted and if he was a Councillor at the time the conversation took place; if he was not a Councillor then he would not have broken the Code of Conduct.

Councillor Boden stated this information could be ascertained immediately.

Claire Hawden-Beal asked if it was known what date the comments had been made as there was nothing on the paperwork to indicate this.

It was decided that the Panel take a five minute break to ascertain the date that Councillor Patrick was co-opted on to Elm Parish Council. The panel retired at 2.25pm returning at 2.35pm.

Carol Pilson stated she had spoken to the Elections team who had confirmed that Councillor Patrick was co-opted on 19 May 2015.

Councillor Boden stated he had spoken to Officers and been informed that it would be inappropriate to take any additional evidence at this meeting as this needed to be attained via an investigation. He therefore suggested that Officers firstly determine as to whether the comments were made between the 8 and 19 May 2015, when Councillor Patrick was definitely a private individual and if this was the case then it would be reported back.

If he was a Councillor, then an investigation be made into the prior comments made in relation to the conversation in order give them more context as to the reason; particularly in relation to whether Councillor Patrick was speaking as a councillor or a private individual; then the investigation would also need to examine as to whether the complainants comments of his medical condition were well known and if so, whether Councillor Patrick would have known this. Once the investigation was completed it would be up to the panel to decide if these comments were made relating to Mr Gutteridge's medical condition.

Councillor Humphrey asked that regarding the processes, any further information or analysis of information and presentations from any witnesses would be brought to another Conduct Committee meeting. Carol Pilson stated that it would be previously the committee had looked at external support when dealing with social media to which Councillor Humphrey asked if a proposition was needed to that effect, that if it is referred to further investigation that this was done internally subject to the points that Councillor Boden had raised. Carol Pilson stated that internally officers could attempt to get the cooperation of the witnesses to ascertain a date as to when the messages were sent and if it proved that Councillor Patrick was acting in his role as Councillor then the investigation could then be commissioned externally for a further report. Councillor Humphrey asked if it was necessary to take the investigation externally to which Carol Pilson

stated that an independent external perspective would be beneficial. Councillor Skoulding stated it would be cheaper to carry this out internally to which Councillor Humphrey suggested that the first part of the investigation be carried out internally and then at the next stage the committee could hear from both parties.

Claire Hawden-Beal endorsed these steps and stated that if the comments were shown to be made when Councillor Patrick was not co-opted then there would be no case but if it showed he was a Councillor then the steps need to be taken but she was concerned about taking the investigation externally and surely the Council's internal IT department could help.

Carol Pilson stated the issue was that it was unknown as to how social media could be manipulated and therefore there would be a need to seek external advice. There was also a need to consider that Mr Gutteridge was a vulnerable person and therefore it was necessary to ensure that an appropriately qualified person was involved to enable Mr Gutteridge to have the ability to co-operate in the process.

Councillor Boden stated the suggestion from most Members was that investigation be done internally but with external advice.

Claire Hawden-Beal stated that if the internal IT department were not able to assist then clearly the investigation would need to be taken externally but in the interests of keeping costs low then the resources available should be used.

Councillor Mason asked if it was appropriate that both parties be asked for the necessary evidence, if willing to which Councillor Boden stated this would be suggested.

Tom Lewis, Deputy Monitoring Officer, stated that two aspects should be looked at:

- Mr Gutteridge's medical condition and the appropriate handling of it;
- Social media was a difficult area and therefore it was important to deliver a balanced investigation ensuring the best expertise is sourced. It would be very concerning if two different versions of evidence were received and therefore there was a need to deliver a comprehensive investigation to resolve this matter.

Councillor Humphrey stated this could not be dismissed as "tit for tat" and that more information was needed and therefore the next step would be to obtain this information and then if further action was necessary.

Councillor Boden proposed that a further investigation be carried out; this was seconded by Councillor Humphrey.

It was AGREED that the Monitoring Officer make suitable arrangements for the complaint to be investigated

Councillor Boden stepped down as Chairman and Councillor Hoy returned to the room to close the meeting.

2:45pm

Chairman