

# Agenda item

## Code of Conduct Complaint against a Parish Councillor

- [Meeting of Standards Hearing Panel, Friday, 18th November, 2022 9.30 am \(Item 6.\)](#)
- [View the reasons why item 6. is restricted](#)
- [View the background to item 6.](#)

LGA 1972, Sch 12A Paragraph 1 and 2 – Information relating to an individual and information which is likely to reveal the identity of an individual

Members are asked to consider a report in respect of complaints made by Members of a Parish Council/ Clerk to a Parish Council that a Parish Councillor had breached the Parish Council's Code of Conduct

### **Decision:**

On 18 November 2022, the Hearing Panel of the Joint Standards Committee of Tonbridge and Malling Borough Council ("the Panel") and all of the Parish Councils within the administrative area of Tonbridge and Malling Borough Council ("TMBC") considered a report of an investigation into the alleged conduct of Councillor [REDACTED] ("the Subject Member") in his capacity as a member of Borough Green Parish Council.

### **1. Application of Schedule 12A Local Government Act 1972**

- 1.1. The complaints and Investigating Officer's Report were presented to the Panel in private papers, as the information presented consisted of information relating to an individual, and information which could reveal the identity of an individual (paragraphs 1 and 2 of Schedule 12A).
- 1.2. The Panel was invited to consider whether the public interest in maintaining the exemption – and therefore holding the hearing in private - outweighed the public interest in having the matter heard in public.
- 1.3. The Monitoring Officer submitted that it was in the public interest to hold the matter in public, transparency being a key part of the Nolan Principles. It was therefore important that in discharging its duties in respect of upholding the highest standards of conduct that the public should be entitled to view proceedings.
- 1.4. The Monitoring Officer did acknowledge there were third parties who might be identified through the process, but felt that their identities could be protected without the matter being dealt with in private.

- 1.5. The Subject Member submitted that the matter should be heard in private to ensure that he was able to give an open account of what he believed were important factors in the case.
- 1.6. In light of the representations made, the Panel considered that it was important that parties should not feel they were unable to speak freely and therefore, in the circumstances, the public interest in maintaining the exemption should prevail and the matter should be heard in private.

## **2. Summary of Decision and Reasons**

- 2.1. The Panel were asked to consider whether Parish Councillor [REDACTED] (the “Subject Member”) has breached the Borough Green Parish Council Code of Conduct in relation to two member obligations:
  - Paragraph 3, which requires that a member shall not “seek to improperly confer an advantage or disadvantage on any person”.
  - Paragraph 5, which requires that a member shall not “disclose information which is confidential or where disclosure was prohibited by law”.
- 2.2. In relation to paragraph 3, the Panel concluded, on the balance of probabilities on the evidence presented to it that: (i) the Subject Member had made contact with a third party; (ii) in the circumstances, he did not have consent from the Parish Council to do so, such that the contact with that third party was improper; (iii) that, at least in part, the intent had been to disadvantage Parish and Borough Councillor Mike Taylor.
- 2.3. The Panel therefore found that the Subject Member had breached this obligation.
- 2.4. In relation to paragraph 5, the Investigating Officer set out in his report and in answers to the Panel’s questions that the information which the Subject Member communicated to the third party had not possessed the necessary quality of confidence to constitute information which was confidential.
- 2.5. The Panel therefore found that the Subject Member had not breached this obligation.

## **3. Decision on Sanctions and Reasons**

- 3.1. The Panel decided to impose and recommend the following sanctions:
  - 3.1.1. To recommend to the Parish Council that the Subject Member be issued with a formal censure by motion
  - 3.1.2. To publish these findings on the Borough Council’s website
- 3.2. The Panel considered that recommending a formal censure by the Parish Council was appropriate. Whether or not the Parish Council followed this recommendation was a matter for the Parish, but the making of the recommendation indicated the importance of maintaining the highest standards of conduct in local government. Publication of its findings on the Borough Council’s own website would also ensure the matter was properly recorded in the event the Parish Council decided not to follow the recommendation.