

Agenda Item No: 5 **Report No:** 16/15

Report Title: Investigation into Complaint against Councillor A White, Seaford Town Council

Report To: Audit & Standards Sub-Committee (Hearings Panel) **Date:** 30 January 2015

Ward(s) Affected: All Seaford Wards

Report By: Assistant Director of Corporate Services

Contact Officer(s)-

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Purpose of Report:

To support a hearing by a Hearings Panel in the matter of complaints made about the conduct of Councillor Anthony White of Seaford Town Council

Officers Recommendation(s):

- 1 To determine whether the hearing should be held in public.
 - 2 To receive and note the report of the Investigating Officer, Mr Alex Oram.
 - 3 To determine whether Councillor Anthony White's conduct was such as to breach the Code of Conduct adopted by Seaford Town Council.
 - 4 If the Panel determines that Councillor Anthony White breached the Code, to determine what, if any, sanction is appropriate.
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Reasons for Recommendations

- 1 To comply with the Council's adopted Hearings Procedure.

Information

2

- 2.1 Complaints were received from Seaford town councillors Linda Wallraven and Ian White and from Mrs Sam Shippen (who was then the clerk of Seaford Town Council) about the conduct of Councillor Anthony White of Seaford Town Council. The allegations were that Councillor White had breached Seaford Town Council's Code of Conduct.

- 2.2** In brief, the complainants alleged that on 9 December 2013 Councillor Anthony White:
- i) was rude and aggressive toward Councillor Ian White
 - ii) shouted and swore at Mrs Shippen in her office before pursuing her out of the Council offices whilst verbally abusing her
 - iii) used foul and abusive language when speaking to Councillor Wallraven in her shop
- 2.3** A copy of Seaford Town Council's Code of Conduct is at Appendix A. Copies of the complaints received are at exempt Appendix B.
- 2.4** The complaints were referred to the district council's Monitoring Officer and in accordance with the district council's adopted procedure the Monitoring Officer consulted with one of the Council's two Independent Persons and determined that the complaints warranted formal investigation.
- 2.5** The Monitoring Officer appointed Mr Alex Oram of ch&i associates (independent case reviewers) to carry out the investigation . A copy of Mr Oram's confidential report is attached at exempt Appendix C
- 2.6** The investigator concluded that Councillor Anthony White had failed to comply with Seaford Town Council's Code of Conduct in that on 9 December 2013 he behaved in a disrespectful and offensive manner and his conduct fell below that expected from a councillor.

3

- 3.1** The district council's complaints procedure provides that the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.
- 3.2** The complaints procedure which is published for the benefit of complainants says the following about Local Resolution:
- "The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that hi/her conduct was unacceptable and offering an apology, and/or other remedial action suggested by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and the Town/ Parish Council for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer may refer the matter for a local hearing"
- 3.3** Following consultation with the Independent Person and with the Investigator, and in the knowledge of the limited range of sanctions available to the district Council, the Monitoring Officer contacted

Councillor Anthony White to see if he might be prepared to offer a public apology by way of local resolution. It was made clear that in order to be sufficient the apology would need to be made at a public meeting of the full Seaford Town Council and it would need to contain an apology not only to each of the complainants but also to Seaford Town Council staff who witnessed Councillor Anthony's conduct.

- 3.4** The Monitoring Officer suggested the content of what would need to be incorporated within any apology and Cllr Anthony White made his own revisions/additions. Exempt Appendix D shows what Councillor Anthony White was prepared to read out by way of a public apology.
- 3.5** The Monitoring Officer then wrote to each of the complainants explaining the possibility of using Local Resolution and enclosing Cllr a White's proposed apology. She impressed on them that agreeing this as a means of local resolution did not mean that they were personally accepting Cllr White's apology. To assist the complainants in their understanding she also explained the alternative Hearings Panel route, the procedure to be followed at a hearing and the possible sanctions which a Hearings Panel would be able to impose.
- 3.6** It transpired that one of the complainants was willing for the matter to proceed by way of local resolution, but two were not.
- 3.7** Whilst this in itself was not a bar to proceeding with local resolution, the Monitoring Officer consulted with the Independent Person and Chair of the Audit & Standards Committee, as a consequence of which it was decided to proceed to a hearing.
- 3.8** At the outset of the hearing the Panel will need to decide whether the hearing is to proceed in public or private. The starting point is that the hearing will take place in public, in the same way as any other formal meeting of the district council. However, as for other council meetings, the Hearings Panel is subject to the normal requirements relating to confidentiality and exempt information contained in sections 100 to K and Schedule 12A of the Local Government Act 1972.
- 3.9** The relevant rules state that the following is exempt information:
- Para 1: "Information relating to any individual"
- Para 2: "Information which is likely to reveal the identity of an individual"
- 3.10** The whole of the Investigator's report centres around information relating to individuals. Indeed, it is difficult to conceive of a standards matter where this would not be the case. This being so, the decision for the Hearings Panel will be to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Transparency presumes that the hearing will be in public to the extent that this can be managed without detriment to a fair hearing. If it decides to maintain the exemption then the hearing will be held in private. If not it will be held in public. This is a matter for the discretion of the Hearings Panel.
- 3.11** As already explained to the complainants, in this particular case there is no dispute about the evidence and/or the accuracy of the investigator's report. There is no need for the Panel to question either Councillor

Anthony White or the complainants in that Cllr Anthony White has accepted the findings of the Investigator, admitted that he was in breach of the Code and has offered to make a public apology in the terms set out at exempt Appendix D.

3.12 The Investigator will therefore be invited to present his report and, assuming that the Panel accepts it, and agrees that Cllr Anthony White breached Seaford Town Council's Code of Conduct, the Panel will be invited to consider an appropriate sanction.

4 The sanctions which the Panel is able to impose are as follows:

- Publish the Panel's findings in respect of the councillor's conduct
- Write a formal letter to the councillor
- Report the Panel's findings to the Town Council for information
- Suggest to the Town Council that it formally censures the councillor through a motion at Council
- Recommends to the Town Council that the councillor be removed from any or all committees or sub-committees of the Council on which he serves
- Recommends that the Town Council arrange training, mediation or other appropriate course of action for the councillor
- Recommends to the Town Council that the councillor be removed from some/all outside appointments to which the councillor has been appointed or nominated by the Town Council

5 The Hearings Panel has no power to suspend or disqualify the councillor or to withdraw any allowance which the councillor may receive.

6 The Investigator will attend the hearing and present his report and findings.

7 The Independent Person consulted on this case is invited to attend. The Panel should note that the Council's hearings procedure provides that the Panel must consult the Independent Person in reaching its decision.

8 Councillor Anthony White and the complainants are invited to attend, although there is no need for them to be questioned on matters of evidence because the Investigator's report is not disputed. The Monitoring Officer does not have power to compel either the complainants or the councillor the subject of complaint to attend and the Panel can proceed in their absence.

Financial Appraisal

9 None.

Legal Implications

10 None, other than set out in the body of the report

Sustainability Implications

- 11** I have not completed the Sustainability Implications Questionnaire as this Report is exempt from the requirement.

Risk Management Implications

- 12** I have completed a risk assessment. The changes/issues covered by this report are not significant in terms of risk. No new risks will arise whether or not the recommendations are implemented or rejected.

Appendices

- 13** Appendix A: Seaford Town Council – Code of Conduct for Members

Appendix B: Complaint Forms

Appendix C: Independent Investigators Report

Appendix D: Proposed Public Apology by Councillor A White