

REPORT OF THE MONITORING OFFICER INTO AN ALLEGATION THAT CLLR DAVID WATSON HAD BREACHED THE CODE OF CONDUCT OF SAFFRON WALDEN TOWN COUNCIL

Background

1. Cllr Watson is a member of Saffron Walden Town Council. In or about November 2014 the then town clerk left the town council. Sometime thereafter a locum was appointed in his place. A meeting of the council's Property, Services, Personnel and Finance Committee took place on 12 January 2015. During the meeting the locum town clerk stated that lettings income was reduced due to discounted hire rates being negotiated with certain groups and individuals. Cllr Watson called that statement into question. The following day the locum town clerk sent all councillors copies of two emails which had been received from hirers querying why they were being charged a higher rate than that previously agreed. Cllr Watson replied in an email to all councillors on the original address list stating that there had been one rate for room hire from Monday to Thursday since before 2010. A higher rate was charged on Fridays and Saturdays. A full copy of the email is appended. It contained a sentence that "it is distressing when unfounded allegations are made that a member of staff has favoured a particular group over another when it is in fact the current council policy which was being implemented". The locum town clerk has complained that by his conduct at the meeting on the 12 January and in his comments in his email the following day, Cllr Watson failed to treat the locum town clerk with respect by implying that he was making untrue statements not supported by evidence.
2. In carrying out the investigation, I prepared questionnaires for completion by councillors who were present at the meeting. I also submitted a questionnaire to Cllr Watson which he responded to. Finally having been given contact details of the former finance officer of the Town Council I sent a questionnaire to her which she kindly completed. I exchanged emails with the two hirers who have sent the emails forwarded by the locum town clerk to members of the council. For the purpose of the investigation I have referred to:-
 - a. the complaint;
 - b. the minutes of Saffron Walden Town Council's Property, Services, Personnel and Finance Committee meeting of 12 January 2015;
 - c. responses to questionnaires;
 - d. responses to emails from the hirers.

Facts not in dispute

3. Saffron Walden Town Council adopted a Code of Conduct on 11 December 2014 although there is no evidence that the Town Council has complied with its statutory duty under s.28(1) Localism Act 2011 to secure that its Code of

Conduct when viewed as a whole is consistent with the principles laid out in that sub-section.

4. The minutes of the Property, Services, Personnel and Finance Committee meeting of the town council on 24 November 2011 show that Cllr Osborne proposed and Cllr Watson seconded a motion to increase hire charges for the town hall to take effect on the 1 January 2012 and that this was carried unanimously. The minutes give the hire rates for the various rooms in the town hall. There are two scales of rates. One applies to private, non-commercial and non-profit making hirings. The other applies to commercial and profit making hirings. The rates are either hourly or daily with different rates being charged Monday to Thursday on the one hand and on Friday or Saturday on the other.
5. One hirer hired the court room on Wednesday nights for a yoga class. She was charged £10.50. That would be the appropriate rate for a one hour private, non-commercial and non-profit making hiring on a Wednesday. The appropriate rate for a commercial or profit-making hiring would have been £21 per hour. The hirer confirms that the yoga class was a profit making venture.
6. Another hirer reports that he was also asked to pay an increase in charges. In his email to the town clerk on the 16 December 2014 he acknowledges the increase and seeks to reduce the hours for which he rents the rooms in order to minimise the increase in expenditure.
7. Although not remembered by the councillors present, the locum town clerk tells me that when he drew this matter to the attention of councillors he referred to saying that the former finance officer had been agreeing "mates' rates" for the hire of the town hall and that the internal auditor should have picked this up.
8. Cllr Watson challenged the accuracy of the locum town clerk's statement in this regard.
9. On the 12 January 2015 the locum town clerk sent an email to Cllr Watson copied to every other member of the council with the subject stated as "Evidence". There was no text to that email. It merely attached two emails from hirers confirming that they had been paying less than the commercial and profit making hire rates for rooms at the town hall.
10. In response to that email Cllr Watson replied on the 14 January 2015. In his response he stated that there was a hire rate for Friday and Saturday and that it appeared that the town council was trying to charge that rate to the yoga club despite the fact he said the council's policy had been unchanged since before 2010. He continued to say that the fee for the main hall was reduced by 21% from the time the balcony was taken out of commission which was approved by the council. Cllr Watson stated that the council had never voted to change the conditions and they were therefore current charges. He suggested that the council should contact both parties to reinstate the original prices they were quoted and to apologise for its actions. He also stated that "it is distressing when unfounded allegations are made that a member of staff

has favoured a particular group over another when it is in fact the current council policy which is being implemented”.

Facts in Dispute

11. It is disputed whether the debate concerning the hall hire rates took place in public or private session.
12. The words used by Cllr Watson in his challenge to the locum town clerk's statement are in dispute as is the manner in which they were said.
13. It is disputed whether the rates charged to hirers (in particular the two hirers referred to above) were not in accordance with the town council's policy.

Findings of Fact

14. Notwithstanding the fact that there is no evidence that the Town Council has complied with its statutory duty under s.28(1) Localism Act 2011 I find that Cllr Watson is bound by the Code of Conduct adopted by the Town Council on 11 December 2014.
15. The facts referred to in paragraphs 3-10 are not disputed and I therefore find them to be facts in this case.
16. It is clear from the minutes of the meeting that the press and public were excluded for one item. The minutes are silent as to what that item was. Initially the complaint was that Cllr Watson's comments were made in the private part of the meeting. Subsequently the locum town clerk stated that the remarks were made in the presence of the public. The majority view of councillors appears to be that the debate on this issue was in private session. As there is no mention in the minutes of any discussion on this point and as all public parts of the meeting should be minuted and the minutes available for public inspection, I find on the balance of probabilities that the debate on this issue was in private session.
17. The town clerk alleges that Cllr Watson accused him of making statements which were “downright untrue” and “of making things up”. Cllr Watson has no recollection of using those expressions but believes he did express his surprise that the locum town clerk was making statements about former members of staff without checking with councillors first. Two councillors that have replied to the questionnaire recall Cllr Watson using those words. Another recalls him using those words or words to that effect. The fourth does not recall the use of those words but does not state they were not used. In the light of the evidence received I find on the balance of probability that Cllr Watson did state that the locum town clerk was making statements which were downright untrue and of making things up or using words to that effect.
18. With regard to the council's policy on charging for hall hire, Cllr Watson is clearly confused. The council's policy is clearly set out in the minutes to the meeting of the Property, Services and Finance Committee on 27 November 2011. There was clearly a distinction between commercial and non-

commercial hirings, the former being charged at twice the rate of the latter. The evidence of the two hirers that I have corresponded with is that they were commercial hirers but being charged non-commercial rates. This is clearly contrary to the town council's policy.

19. The former finance officer states that one hirer (for the yoga classes) was being charged the "community rate" on the basis of an instruction from a previous town clerk. She states that the other hirer was being charged the commercial rate.
20. The Town Council's charging rates do not refer to a "community rate". The rates are either private, non-commercial and non-profit making or commercial or profit-making. I have no reason to doubt that the former finance officer was instructed to apply the rate she did for the hire for yoga classes but certainly as from January 2012 that rate did not accord with the Council's policy. Although it is not clear how the charge for the other hiring was calculated it is clear that the hirer was paying less than the Council's policy required.
21. On the balance of probabilities I therefore find the appropriate charging rates were not being applied in every case.

Findings as to whether the facts which have been found amount to a breach of the Code of Conduct

22. Paragraph 1 of the Code of Conduct of Saffron Walden Town Council provides "you must treat others with respect". This is the same provision as paragraph 3.1 of the Uttlesford District Council Code.
23. In October 2012 Uttlesford District Council issued guidance with regard to the Code of Conduct. This was so that councillors (whether district, parish or town councillors) would understand the approach taken by the Standards Committee in dealing with allegations of a breach of the Code of Conduct.
24. Paragraph 1 of the guidance states "ideas and policies may be robustly criticised but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers who do not have a right of reply".
25. Whilst it would have been legitimate for Cllr Watson to question what evidence the locum town clerk had to support his statement that council charging rates had not been correctly applied, I find that in accusing the town clerk of making statements which were "downright untrue" and "of making things up" Cllr Watson crossed the line of what was acceptable and called into question unjustly the integrity of the locum town clerk.
26. Similarly in his email of the 14 January 2015 Cllr Watson accused the locum town clerk of making "unfounded allegations" of a very serious nature. However, the locum town clerk's allegations were not unfounded. They were based on clear evidence from two hirers that at least these two hirers had been carrying out commercial operations from town council premises but had been charged the lower rates. In his email Cllr Watson draws a conclusion

that current staff were incorrectly endeavouring to charge the rate for Friday and Saturday. However, examination of the emails which the locum town clerk forwarded to members against the table of charges which the town council applied and which presumably would have been easily accessible to Cllr Watson would have shown that this was not the case and that it was in fact the non-commercial rate being charged rather than the commercial rate. I find therefore there was no basis upon which Cllr Watson could have accused the locum town clerk of making “unfounded allegations”.

Summary

27. In the circumstances, I find that Cllr David Watson of Saffron Walden Town Council breached the Code of Conduct of that council by failing to treat the locum town clerk with respect in breach of paragraph 1 of the town council’s Code.