

Standards Committee Minutes

The minutes of the Standards Committee meeting of Wyre Borough Council held on Wednesday, 14 March 2018 at the Civic Centre, Poulton-le-Fylde.

Standards Committee members present:

Councillors Barry Birch, Sue Catterall and Rob Fail

Officers present to advise the Committee: Helen Kay (Independent Person), Mary Grimshaw (Senior Solicitor and Deputy Monitoring Officer), and Roy Saunders (Democratic Services and Scrutiny Manager).

Also present: Liesl Hadgraft (Investigating Officer), Barry Parsonage (Independent Person), Cllr E Anderton (witness for the subject member).

Four members of the public, including the complainant (Cllr Rita Hewiitt).

17 Declarations of Interest

None.

18 Code of Conduct: Alleged breach by Cllr Terry Rogers Town Council

Cllr B Birch introduced those present, explained the purpose of the hearing, the procedures to be followed and the documents to be considered, as set out on the agenda.

The Democratic Services and Scrutiny Manager submitted further copies of pages 30, 44, 45 and 76 of the agenda pack, printed in colour, because the highlighted sections of those documents had not been clearly visible on the black and white versions previously circulated.

Cllr Rogers confirmed that he intended to call Cllr Emma Anderton as a witness, but he would not now be calling Cllr Michael Barrowclough who was unable to attend because of work commitments.

The Investigating Officer, Liesl Hadgraft, confirmed that she would not be calling any witnesses.

Mrs Hadgraft, presented her report and findings. In doing so, she made the following comments:

- This case was incredibly complex and therefore difficult to unravel.
- As stated in her report, there was a substantial amount of background information, about issues which had been ongoing for a number of years.
- To add to the complexity, historical issues had been dealt with by the previous Monitoring Officer.
- Over the years a large amount of documentation had been provided by the complainant. This had all been reviewed, either by her or the previous Monitoring Officer to understand its relevance.
- To help build a picture of the overall situation and the relationship issues between the subject member, the complainant and a third party over the last few years, some background documentation had been included in the agenda for this hearing, some of which, relating to a third party, had been printed on green paper and had not been made publically available.
- During the course of her interview with Cllr Hewitt, a matter was discussed which highlighted an area of concern that would require further investigation.
- Standing Order 29 of Fleetwood Town Council's procedural rules dealt with disorderly conduct at meetings and how such behaviour would be dealt with.
- Her interview with Cllr Hewitt had highlighted that Cllr Rogers may have used this standing order inappropriately at various councils meetings to prevent Cllr Hewitt from speaking.
- She stressed that the issues was not that Cllr Rogers had used this Standing Order - clearly it is there to enable the Chairman to keep order at meetings – it was more a question of the circumstances surrounding how the Standing Order had been used.
- Section A of SO 29 stipulated that all members must observe the code of conduct adopted by the Town Council
- Section B stated that *"No member shall persistently disregard the ruling of the Chairman, wilfully obstruct business, or behave irregularly, offensively, improperly or in such a manner as to bring the Council into disrepute"*.
- The minutes of the meeting of the Town Council held on 23rd February 2017 (submitted as Appendix 14 of her report), showed that the meeting had been opened by Cllr Rogers, Following the receipt of apologies for absence and declarations of interest, Cllr Rogers had adjourned the meeting, retired to a private room with all the Members

of the Council to “*discuss internal business*”. When they had returned some 20 minutes later, Cllr Rogers had re-opened the meeting and invoked SO 29 on Cllr Hewitt, who was then not allowed to speak for the rest of the meeting.

- Following her meeting with Cllr Rogers, further investigation had indicated that a similar situation had occurred on two earlier occasions, at an extraordinary Council meeting on 19 January and a regular Council meeting on 26 January 2016 (submitted as appendices 23 and 24 of her report).
- The minutes from all of these meetings indicated that prior to the Standing Order being invoked, there had not been an obvious persistent disregard of any ruling, wilful obstruction of business or irregular, offensive or improper behaviour by Cllr Hewitt at the meeting.
- When interviewed, Cllr Rogers had readily acknowledged that this was the case, stating that the behaviour issues had occurred in the lead up to the meeting and not at it, in the main via emails to himself and the former Clerk.
- He had said that, as a result of these emails and conversations with the former Clerk, he had decided to invoke SO 29 prior to the meeting.
- Cllr Hewitt had been duly elected and as such should be allowed to speak on matters concerning Fleetwood Town Council at their meetings.
- Despite the fact that Cllr Rogers was of the view that Cllr Hewitt’s behaviour leading up to the meeting had been unacceptable, this behaviour did not take place at the meeting, in the public arena and therefore those attending the meeting would have been unaware of what had gone on before.
- At the February meeting the discussion regarding the use of Standing Order 29 had been held in private and therefore the public had not been aware of the reason behind her being not allowed to speak. As a result, it would have appeared to them that Cllr Hewitt has been silenced for no reason.
- Whilst there might be personality clashes, disagreements or a difference in political opinions within the Town Council it was not appropriate to use the procedural rules to silence another elected member.
- When this had been explained to Cllr Rogers, he had admitted that he could see how this might look from the public perspective, as they had not been privy to any of the communication prior to the meeting and what had been happening behind the scenes. Cllr Rogers had, at that time, freely offered to publically apologise at the next Fleetwood Town Council meeting in order to resolve this matter.

- This was considered to be an appropriate resolution, given that it was at three previous public meetings of the Council that his action had led to Cllr Hewitt being prevented from speaking.
- In view of his willingness to make amends and resolve the matter under an informal process, prior to sending out the letters to Cllr Rogers and Cllr Hewitt, she had invited Cllr Rogers to view her suggested wording for the apology, which he had agreed to.
- Letters were then sent to both parties 17 August 2017.
- However, she had received an email from Cllr Rogers on 23 August 2017 with a list of demands he required to take place prior to him making his apology.
- The demands made were a series of apologies from Cllr Hewitt to a number of different individuals, including herself, as Monitoring Officer (although, so far, no additional complaints had been received from any of the individuals referred to).
- At the end of his email Cllr Rogers had suggested that he would *“defend his reasons for not having her heard now and if she continues with unfounded accusations in future”* _ implying that he would do it again even though he was fully aware it was a wrong application of the Standing Order.
- With his email Cllr Rogers had also sent in numerous snap shots of a social media site where comments had been made about this matter. However, the comments did not change the position that he that he had used the Standing Order incorrectly.
- She had hoped that Cllr Rogers would make the apology as requested and she had given him two opportunities to do so in order to prevent it coming to a full hearing scenario. But, he declined both opportunities, leaving her with no alternative but to bring her findings to a Standards Hearing.
- She did not doubt that, given the period of time that this situation had been on-going and the complex issues involved that Cllr Rogers had had to deal with, he had at times he had felt frustrated. However, at the start of her meeting with Cllr Rogers, he had displayed some of the aggressive tendencies that Cllr Hewitt had complained of.
- During this process there had been times when Cllr Hewitt had been difficult to deal with and she had declined to come in for a meeting to allow her the opportunity to clarify some facts. She had also been unavailable for periods of time.
- Both had been un-cooperative at times during the process of dealing with this complaint and she believed that some of this could be put

down to their very strained relationship.

- She was firmly of the belief that, by using Standing Order 29 in the way that he had, Cllrs Rogers had breached the code of conduct.
- He had initially accepted that breach and had offered an apology, but he had subsequently declined to do so, showing a continued disregard for the code of conduct and ethical standards.
- She therefore recommended to the Committee that it should support the resolution she had tried to obtain by informal action, by requiring as a sanction that Cllr Rogers be required to make an apology and the next Fleetwood Town Council meeting.

Cllr Rogers was invited to ask questions or make comments on the Investigating Officer's presentation and he made the following points.

- He acknowledged that Ms Hadgraft had given a true account of the meetings he had attended with her and accepted that he had "got a bit worked up" but, he did not think he had been "aggressive".
- He did not agree that the decision to prevent Cllr Hewitt from speaking at the meeting in February 2016 had been taken "behind closed doors" – a formal resolution to invoke Standing Order 29 had been taken in public. He said that the 20 minute recess prior to that decision being made was to discuss another issue – although he accepted that the perception of members of the public present might have been different.

Ms Hadgraft responded to questions from members of the Panel.

Cllr Rogers then made a presentation to the Committee during which he emphasised the following points.

- He explained, at length, the background circumstances which had given rise to a decision eventually being taken to stop Cllr Hewitt being heard, in particular, her inappropriate behaviour over an extended period of time towards the former Clerk, including: publicly questioning her accounting methods, suggesting that she had needlessly worked extra hours and had constantly disrupted her with numerous unnecessary email comments and enquiries. He stressed that the actions he had taken had been to protect a member of staff who was unable to answer back and for whom he, as Chairman of the Town Council, had responsibilities as an employer.
- He had obtained advice from the Lancashire Association of Local Councils (LALC) on how to deal with the disruption to meetings being caused by Councillor Hewitt. The advice received had indicated that Standing Order 29 could potentially be used to prevent Cllr Hewitt speaking.

- He maintained that, on the first two occasions Standing Order 29 had been used, the proper procedure had been followed. He now accepted, on the basis of the points made by the Investigating Officer and with the benefit of hindsight, that on the third occasion the use of Standing Order 29 had been predetermined and had been invoked before Cllr Hewitt had spoken or caused any disruption at the meeting. However, whilst he now acknowledged that the correct procedure had been followed, he had made a realistic assumption that Cllr Hewitt would again be disruptive, because of a “waterfall” of emails she had sent during the week before the meeting.
- He confirmed that, at his initial meeting with the Investigating Officer, he had agreed to make a public apology to Cllr Hewitt, but he had subsequently changed his mind because of further derogatory comments made by Cllr Hewitt about Fleetwood Town Council and Wyre Borough Council on social media and in the press. He had thought, following those further comments, that it would be detrimental to the reputation of the Town Council if he then made an apology.

Cllr Rogers called Cllr E Anderton (an elected member of both Fleetwood Town and Wyre Borough Council) to give evidence in support of his case.

Cllr E Anderton made the following comments:

- She said she had been a member of Fleetwood Town Centre since 2015 and it was very sad that this situation had resulted in a standards hearing.
- She confirmed that she had witnessed some of Cllr Hewitt’s behaviours towards the former Clerk referred to by Cllr Rogers, including: comments about her working hours and her method of accounting for the festive lights as well as making disparaging comments in emails to councillors and members of the public.
- Cllr E Anderton said that she had an accountancy qualification and had tried to explain to Cllr Hewitt that the accounts compiled by the former Clerk had been presented in the correct way.
- She had been present at the meeting when Cllr Hewitt had accused Cllr Rogers of his “hands being dirty”.
- With regard to the use of Standing Order 29, Cllr E Anderton said that she was aware that Cllr Rogers had received advice from LALC about the possibility of using that rule to deal with Cllr Hewitt’s disruptive behaviour, but she did not think clear guidance had been given to him on how the procedure should be invoked. She also said that the Standing Order was also ambiguously written and open to interpretation. She confirmed that she and other Town Councillors had voted on the implementation of Standing Order 29, with the intention of protecting the former Clerk.

When invited to make comments or ask questions on the case made by Cllr Rogers, Ms Hadgraft said that she did not dispute that there had been a lot of complex issues leading up to action taken by Cllr Rogers when chairing meetings, but stressed that her main concern was that Cllr Rogers had invoked Standing Order incorrectly on more than one occasion and had used it to improperly prevent Cllr Hewitt, as an elected Member, from speaking in anticipation of disruptive behaviour, rather than as a response to it.

Cllr Rogers said in response to a question from Ms Hadgraft that Cllr Hewitt had not made any accusations since the previous Clerk had left, although she had questioned petty cash arrangements with the new Clerk.

Cllr Rogers also said that the last time that Standing Order 29 had been invoked was about two years ago, but Cllr Hewitt had not attended many meetings since then and had said in the press that she had been gagged.

Cllr Rogers answered a number of questions from members of the Panel.

The Committee retired (at 5.20pm) with the Deputy Monitoring Officer, the Independent Person and the Democratic Services Manager, to consider in private session, the information that had been presented to them. They returned (at 5.45pm) and the Chairman announced the Committee's findings, as follows:

The Panel, having considered all the evidence presented, had concluded that Fleetwood Town Council had used Standing Order 29 inappropriately, but had found that Councillor Terry Rogers had not breached the Councillors Code of Conduct.

In light of this finding, the Panel had **RESOLVED** to recommend to Fleetwood Town Council that the following actions be taken:

1. That Members of the Town Council be provided with training on the Council's Standing Orders.
2. That it be minuted at a future Town Council meeting that Standing Order 29 had been used inappropriately on three previous occasions.
3. That Standing Order 29 should be reviewed by the Town Council with a view to making it clearer and to remove any ambiguities.
4. That the Town Council give consideration to arranging mediation between Councillor Rogers and Councillor Hewitt.

The Chairman said that a written decision letter would be sent to Cllr Rogers as soon as possible and that a copy would be sent to the Clerk to Fleetwood Town Council, Deborah Thornton, asking her to report these findings to the Town Council for consideration.

The meeting started at 4.00 pm and finished at 5.50 pm.