

Meeting of the standards panel

Thursday 10 October 2013; Room 18a, Brockington

Complaints 13020 and 13022: Councillor Liz Harvey; complainants: Mr Andrew Ashcroft and Mrs Yvonne Coleman

Present:

The standards panel:

John Sharman, Appointed Independent Person (chairman)
Councillor Chris Chappell (Herefordshire Council representative)
Richard Gething (Town & Parish Council representative)

Legal advisor:

John Jones, Monitoring Officer

Clerk:

Hazel Lavelle, Democratic Services Support Officer

Subject member:

Councillor Liz Harvey

Complainants:

Mr Andrew Ashcroft
Mrs Yvonne Coleman

Also present:

Councillor Mark Hubbard, accompanying Cllr Harvey as a friend and witness.

Proceedings

1. The chairman introduced all those present and outlined the structure of the meeting. He asked Andrew Ashcroft to outline the grounds for his complaint.
2. The complaint related to events during the second phase of the work of the Community Infrastructure Levy Task and Finish Group (CIL T&FG), between February and July 2013. Cllr Harvey was the chairman of the CIL T&FG.
3. Three Dragons Consultants (3D), had been involved in the work of the T&FG, and a meeting had been arranged for 26 April. 3D had been unable to provide information requested by the group for inclusion in a report to be discussed at the meeting. In the absence of this information, Andrew Ashcroft had felt that the meeting should be postponed, and had said that he would not attend the meeting, but would use the time on other related tasks.
4. The first part of the complaint related to a series of phone calls with Councillor Harvey relating to the meeting, as a result of which, Andrew Ashcroft felt that Councillor Harvey had failed to understand or respect his decision not to attend the meeting, and did not treat him with respect or courtesy when he tried to explain the continuing relationship with 3D. He felt that Councillor Harvey had harassed him to attend the meeting of 26 April.
5. The second part of the complaint related to Councillor Harvey's preparation of a draft Task and Finish Group Report. Councillor Harvey had prepared a draft report without waiting for a response from 3D, and without discussion with Andrew Ashcroft, as 3D had recommended. Andrew Ashcroft identified particular statements in the draft report that he felt were unsubstantiated, and which went beyond what would be normal or appropriate for such a report. He felt that the statements in the report directly or indirectly made unsubstantiated criticisms of officers and other members in what was intended to be a document available to

the public in May 2013. He was also concerned that the report had been circulated one day before the meeting.

6. The final part of the complaint related to statements in an e-mail dated 7 May 13, from Councillor Harvey to him, which he alleged were inaccurate. He felt that the e-mail failed to identify that neither he nor Yvonne Coleman had contributed to the preparation of the draft report, or that the draft report had been made available only one day before the meeting on 26 April 2013. He was also concerned that Councillor Harvey had asserted her disappointment that 'none of you considered it appropriate to raise the matter with me and the T&FG members directly', when, in fact, Andrew Ashcroft had previously raised concerns directly with Councillor Harvey during phone calls and in e-mails.
7. Andrew Ashcroft felt that Councillor Harvey had failed to treat him with respect and courtesy, had bullied him and had, by her actions, compromised, or risked compromising, the impartiality of those who work for, or on behalf of, the authority.
8. The panel asked Yvonne Coleman to outline her ground for complaint. Yvonne Coleman was the Planning Obligations Manager for the council, and had been working on the Herefordshire Local Plan Core Strategy and the Community Infrastructure Levy (CIL).
9. Yvonne Coleman explained that before the CIL could be introduced, a draft charging schedule based on evidence demonstrating economic viability was required, which must be subject to public consultation, and 3D, as specialist consultants, had been appointed by the council to undertake the necessary viability evidence. A public consultation had taken place between 4th March and 22nd April 2013, and responses were currently being analysed.
10. Yvonne Coleman stated that, although Councillor Harvey had been aware of the public consultation, she had decided to undertake her own parish consultation, and e-mailed all parish clerks inviting them to return comments directly to her. This had been done without discussion with officers involved in the formal consultation process. In addition, the e-mail to parish clerks had not been copied to officers, so they were unaware that it had been sent.
11. The e-mail to parish clerks was subsequently withdrawn, but Yvonne Coleman felt that Councillor Harvey should have sought her advice before sending the email, and that her failure to do so showed a lack of respect for both the process Yvonne Coleman was undertaking, and for her personally. She felt that Councillor Harvey had intended, by her action, to undermine the agreed process, and that she had placed Yvonne Coleman's reputation at risk with other members and parish councils, and had therefore failed to treat her with respect and courtesy.
12. The second part of the complaint alleges bullying. Yvonne Coleman stated that, although she could not identify any specific incident, Councillor Harvey's general conduct towards her had made her feel anxious and troubled, and it had affected her mental health and wellbeing to the point where she had been forced to take sick absence. She stated that colleagues and family members had noticed a change in her, and witnessed her increasing anxiety before meetings with Cllr Harvey or before making a telephone call. She felt that Councillor Harvey's tone of voice was belittling and like a 'scolding parent', rather than the courteous and respectful approach that would normally be expected between officers and members, and that Councillor Harvey's body language reinforced that negativity. Yvonne Coleman said that, while Councillor Harvey was polite and professional in written emails, she failed to show the same respect in verbal communication, and that Councillor Harvey's conduct constituted bullying.
13. The final part of the complaint related to Councillor Harvey's draft report, referred to in Andrew Ashcroft's complaint above. Yvonne Coleman felt that the report was contrary to advice that she had offered, and was critical of assumptions made by 3D, but that it failed to offer evidence to support those criticisms. Yvonne Coleman felt that the report compromised or was likely to compromise, the impartiality of those who work for, or on behalf of, the authority.
14. In response to these complaints, Councillor Harvey referred to the extreme pressure that officers had been under and the pressure on the CIL T&FG to complete their work according to a strict timetable. The T&FG was required to produce a report in time for issue on 2nd May to go to GOSC on 10th May to meet the June Cabinet timescales. The meeting on the 26th April had been scheduled to review the draft report, make any amendments and circulate for

electronic review to meet these timescales. In preparation for this meeting Councillor Harvey drafted the report using all the information available from various sources. She delayed circulating it pending a response from 3D to questions the group had put to them.

15. When it became clear that 3D would not be responding in time to complete the report, Andrew Ashcroft had suggested that the meeting on 26th was unnecessary. Councillor Harvey had felt that it was unnecessary to delay the draft report any further, and had asked Andrew Ashcroft to attend the meeting to provide direct input into the report. She felt that he was prioritising support to the consultation process ahead of attending the meeting. Councillor Harvey had felt frustrated by the failure of 3D to respond to questions put to them by the group in time to complete the report, and their reprioritising of work, since they were being paid by the council to assist the group. She stated that she had made it clear to Andrew Ashcroft that the meeting to review the draft report would go ahead on 26th April in order to keep to the schedule and remain in step with the broader policy timetable. Councillor Harvey did not consider that she had, at any time during telephone conversations or emails, been disrespectful or discourteous towards Andrew Ashcroft. She acknowledged that she had been exasperated that there was to be no officer present to review the draft report and provide advice at such a critical moment in the group's work, and that she had been firm in expressing this view, but no more so than the circumstances warranted or justified. Councillor Harvey said that she had argued persuasively in the hope that Andrew Ashcroft would change his mind about attending, but did not consider that her behaviour was inappropriate, particularly in view of the fact that Andrew Ashcroft is a senior and experienced officer.
16. Councillor Harvey stated that she had drafted the report with reference to the notes produced from previous group meetings, emails and comments from group members, research into previous reports to the council from 3D, and advice from the clerk. She had delayed circulating the draft, pending a response from 3D to the group's questions. When Andrew Ashcroft contacted her, she reminded him that the meeting on the 26th would be reviewing the draft report. She advised him that if 3D were not going to provide a response there was no need to hold up the draft report any further, and said that the report would be with him the following day. Councillor Harvey stated that Andrew Ashcroft had made no comments on the contents of the report and had left it to her to decide whether or not to hold the meeting.
17. Councillor Harvey said that she failed to understand Andrew Ashcroft's complaint that she had shown a lack of respect towards current and on-going relationships with 3D. While it was disappointing that 3D would not be providing answers to the group's questions in time to contribute to the report, it was clear that they had been working over the previous fortnight on technical queries passed to them by officers monitoring the responses to the public consultation.
18. At the meeting on 26th April, the group made a number of changes to the draft report. Following that meeting a final draft report was produced and circulated to officers. It was asserted on 2nd May that the report contains a number of inaccuracies, but they were never specified by officers and Councillor Harvey remained unclear where the draft required correction. Councillor Harvey felt that Andrew Ashcroft had had an opportunity to raise any issues relating to the draft report at the meeting to review it on 26th April, or immediately before or afterwards, but did not do so. Councillor Harvey did not accept that the report brought either her, the office of scrutiny or the authority into disrepute or presented a risk to the impartiality of those who work for or on behalf of the authority.
19. In response to Andrew Ashcroft's complaint that Councillor Harvey had failed, in her e-mail dated 7 May, to point out that officers had had no input to the draft report, and that the report was circulated only one day ahead of the meeting. Councillor Harvey stated that the purpose of the email was to request action following Andrew Ashcroft's non-attendance at the meeting on the 26th, and to record that he had made no comments on the contents of the report before or after the meeting. Councillor Harvey pointed out that the e-mail had been sent to members of the T&FG, to the cabinet member and the director, Andrew Ashcroft's manager – all of whom were aware that officers had played no part in drafting the report and suggested that the omissions were, therefore, irrelevant. Councillor Harvey suggested that Andrew Ashcroft had misinterpreted the point she was making in the email.

20. Councillor Harvey felt that Andrew Ashcroft had chosen to withdraw from engagement with the work of the scrutiny group and that there were no ground for complaint regarding her disagreement with his decision to do so, and the alleged consequent shortcomings of the resulting draft report
21. Turning to Yvonne Coleman's complaint, Councillor Harvey referred to the e-mail she had sent to parish clerks. She stated that, at the outset of the CIL review, T&FG members had expressed a desire to visit some parish councils to explain the plans for the implementation of CIL, discuss some of the options available in doing this and canvass views from parishes on these and any other matters of concern at local level, but this had not been possible during the first phase of the work. The group had remained concerned to make parishes aware of the parallel scrutiny activity, to seek their comments on the recommendations from the December interim report, and to invite comment on the outstanding areas of work which the group had reconvened to address. Councillor Harvey stated that she had also been made aware that a number of parish councils were struggling to respond to the public consultation within the timescale, due to their meeting cycles. As chairman of the T&FG, she had decided to write to the parishes to alert them to the scrutiny work, invite comment and advise them that the group would be working on the report beyond the closure of the public consultation. She was never informed that this might be inappropriate or that the mechanism by which she proposed to make contact was unusual. Councillor Harvey stated that the contact was solely for the purpose stated, and that there was no intention to undermine or duplicate the public consultation. Nor was there any intention to undermine Yvonne Coleman.
22. Councillor Harvey expressed her deep regret that Yvonne Coleman had felt her actions to be a personal attack on her and her work, and took the opportunity to apologise unreservedly for the upset Yvonne Coleman had experienced.
23. Turning to the allegation of bullying, Councillor Harvey pointed out that Yvonne Coleman had not provided any instances of bullying or harassment. Councillor Harvey stated that she respected Yvonne Coleman, and thought that she had come under increasing pressure as the workload had increased. Councillor Harvey was upset and concerned by this allegation because, while she recognised that Yvonne Coleman had suffered mentally and physically, there was no specific information to link her problems with Councillor Harvey's conduct. Councillor Harvey did not consider that she had been more demonstrative of the frustration experienced than other members of the T&FG, but felt that, in her role as chairman, she might have been more of a focus for Yvonne Coleman's attention than other members. This might mean that her comments had appeared to concern Yvonne Coleman as persistent criticism, given her pivotal role in the development of documents.
24. Councillor Harvey thought that, in her position as an opposition councillor and as a member with significant concerns about the core strategies relating to her ward, it was likely that Yvonne Coleman had observed her mostly challenging the work in which she was involved. She stated that this was in no way personal to Yvonne Coleman.
25. The final part of this complaint concerned the draft report referred to in Andrew Ashcroft's complaint. Councillor Harvey explained that all members of the T&FG were anxious to question 3D on their work for the council. They had no reason to wish to damage or impugn the professionalism and impartiality of 3D, but there were concerns that the advice provided by 3D to officers, and the assumptions they had made, had changed significantly over the period of their work for the council, and the group would be failing in their responsibilities to scrutiny and to council if they did not raise those concerns. Councillor Harvey stated these concerns were not unfounded and that, had officers attended the meeting on 26 April, this could have been made clear to them. She felt that, had either Andrew Ashcroft or Yvonne Coleman contacted her regarding their concerns, those issues might have been addressed.
26. Councillor Harvey expressed her regret that these complaints had been made by officers whose knowledge and experience she respected. She felt that timescales, workload, staff

shortages and budgetary constraints had come together to create intolerable pressure on officers and that the scrutiny activity had, perhaps, been the final straw.

Conclusion

27. The panel agreed that, in relation to Andrew Ashcroft's complaint (13020), Councillor Harvey had not breached the code of conduct.

28. In reaching this decision, the panel:

- recognised that Councillor Harvey, as chairman of the T&FG, was under pressure to deliver to a timetable;
- recognised that Andrew Ashcroft was a senior, experienced officer of the council, who was used to dealing with the demand of members, and there was an expectation that he should be able to deal with Councillor Harvey's demands;
- felt that there should have been an opportunity within the system to challenge the draft T&FG report, thus avoiding the risk of compromising the authority and officers prior to publication;
- accepted that Councillor Harvey was demanding, assertive and working to a tight deadline, but felt that she might be more aware of the impact of her conduct on others;
- recognised that the complaint had not been made lightly, and that there had been a breakdown in communication;
- hoped that good working relationships would now be restored.

29. The panel agreed that, in relation to Yvonne Coleman's complaint (13022), Councillor Harvey had breached the code of conduct in that she had failed to treat Yvonne Coleman with respect. In reaching this decision, the panel:

- acknowledged that Yvonne Coleman was a less senior officer than Andrew Ashcroft, and had found Councillor Harvey's demands difficult to manage, resulting in her feeling under pressure;
- noted that, in respect of the e-mail sent to parish clerks, Councillor Harvey had accepted, in retrospect, that she should have notified Yvonne Coleman in advance, and that she had apologised unreservedly for any hurt caused;
- felt that there should have been an opportunity within the system to challenge the draft T&FG report, thus avoiding the risk of compromising the authority and officers prior to publication;
- accepted that, during the period in question, the relationship between Councillor Harvey and Yvonne Coleman had a detrimental effect on Yvonne Coleman, but that it reflected a lack of respect on Councillor Harvey's part, rather than bullying.

Recommendation

30. The panel's agreed recommendation was that Councillor Harvey should be asked to make a written apology to Yvonne Coleman



John Sharman
Independent Person
Chairman of the standards panel
22 October 2013