

STANDARDS HEARING SUB-COMMITTEE

Minutes of the proceedings at a meeting of the Standards Hearing Sub-Committee held in the Georgian Room, Kendal Town Hall, on Thursday, 28 June 2012, at 2.00 pm.

Present

Elwyn Bradshaw (Parish Member)
John Clough (Councillor)
Janette Jenkinson (Councillor)
David Thomas (Independent Member)

An apology for absence was received from Jim Morrison (Independent Member)

Officers

Mike Dudfield	Legal Advisor
Matthew Neal	Solicitor to the Council
Lee Teasdale	Democratic Services Assistant

1 ELECTION OF CHAIRMAN

RESOLVED – That David Thomas be elected as Chairman for the meeting of the Sub-Committee.

2 APOLOGIES

RESOLVED – That an apology for absence was received from Jim Morrison.

3 DECLARATIONS OF INTEREST

RESOLVED – That Councillor Janette Jenkinson declared a personal interest in Case No. 2012/001, due to being an associate of Councillor Tom Harvey.

4 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS

RESOLVED – That the report from the Investigating Officer in relation to Case No. 2012/001 be considered in the presence of the press and public.

5 CASE NO 2012/001

The Chairman of the Sub-Committee made introductions and outlined the procedure which was to be followed.

The Investigating Officer summarised the details of the case. A complaint had been received about Councillor Frank McCall of Grange-over-Sands Town Council who was alleged to have breached the Grange-over-Sands Town Council Members' Code of Conduct (" the Code") in the manner in which he had treated

others, Members and staff, in particular with regard to failing to treat them with respect, intimidating behaviour, bullying and conduct likely to bring the Council into disrepute, contrary to paragraphs 3(1), 3(2) and 5 of the Code. The Complainant was Mrs Viv Tunnadine Town Clerk but the complaint was made on behalf of the Town Council.

Specific instances of intimidation and aggression were alleged to have taken place on various dates as follows:

- (1) That on 9 May 2011 during the official opening of Clare House Lane Bridge Councillor McCall was present and expressed his concern to the Mayor, Councillor Harvey, regarding the safety of the bridge. Councillor Harvey assured him that the bridge railings were safe. Councillor McCall was vociferous that Councillor Harvey should stop the opening and after he was told that he was not going to stop the opening, Councillor McCall started to stamp around, swore and threatened to call the press. He shouted to Ms. Jagger (who was Deputy Town Clerk at all material times) that he was resigning.
- (2) That on 16 June 2011 during a conversation, in which he requested a copy of the Model NALC Standing Orders, he was rude to Ms. Jagger.
- (3) That during a conversation on 12 September 2011 with Councillor Harvey, regarding the Town Council's approach towards the Freedom of Information Act 2000 Councillor McCall swore at Councillor Harvey and spoke loudly and was aggressive towards him.
- (4) That on 12 October 2011 after a meeting of Town Councillors, Ms Jagger and an officer from South Lakeland District Council concerning the options available for future maintenance of the public conveniences in Grange-over-Sands, Councillor McCall became increasingly cross and agitated and shouted at those present regarding the status of the group of Town Councillors and banged the table with his fist and gesticulated.
- (5) That on 13 October 2011, during a telephone conversation with Ms Jagger, Councillor McCall stated that the manner in which the Town Council acted in terms of providing papers to the public at Town Council meetings was unacceptable and illegal. He was angry and shouted at Ms Jagger telling her that she must sort things out. He then sent an email to the Town Council and the other Town Councillors stating that it was wrong for the Council to ask staff to take on additional tasks until outstanding problems were resolved.
- (6) On 19 October 2011 Councillor McCall e-mailed the Town Council and Town Councillors effectively criticising a note sent out by Ms Jagger of the meeting with the South Lakeland District Council officer on 12 October.
- (7) On 13 December 2011 Ms Jagger was sitting at her desk and Councillor McCall put his ideas about placing a receipt request for e mails to Town Councillors and monitoring them. Ms Jagger did not immediately accept his

idea. He shouted at her and his bearing and demeanour towards her was an invasion of her personal space.

The Investigating Officer advised Committee Members that his report concluded the following:

- That there had been failure by Councillor McCall to comply with paragraph 3(1) of the Code in that, on 16 June, 12 September, 12 & 13 October, and 13 December 2011, he did fail to treat others, namely Councillor Harvey and Ms Jagger, with respect.
- That there had been failure by Councillor McCall to comply with paragraph 3(2) of the Code in that, on 16 June, 12 October and 13 December 2011, his conduct towards Alix Jagger constituted bullying.
- That there had been no failure by Councillor McCall to comply with paragraph 5 of the Code in that, between 16 June and 13 December 2011, he did not conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.

Councillor McCall was invited to present his case, he read from a previously prepared statement (copy on file), in which he acknowledged that his behaviour and manner had on occasion been inappropriate, and offered assurances regarding his future conduct.

In relation to the incident of 9 May 2011 The Investigating Officer confirmed that he was no longer of the view that there had been a breach of the Code in relation to this part of the complaint. The Sub-Committee therefore found it unnecessary to make any findings of fact in relation to this element of the complaint save that Councillor McCall had not assumed the office of Councillor at that time and therefore the Code was not engaged in relation to the issues of his attendance at the opening of Clare House Lane Bridge.

6 ADJOURNMENT OF CASE 2012/001

RESOLVED – That in accordance with the approved procedure, the meeting be adjourned in order to allow the Sub-Committee to give further consideration to the case.

7 RE-ADJOURNMENT OF CASE 2012/001

The Chairman announced the findings of the Sub-Committee having heard the Investigating Officer's report, and considered the submissions of Councillor McCall. Consequently it was

RESOLVED - That

(1) On 12 September 2011 Councillor McCall's conduct towards Councillor Harvey did not respect him either as the Mayor or as a councillor and there was therefore a breach of Paragraph 3(1) of the Code (failure to treat others with

respect). The Sub-Committee decided that the facts were undisputed and that these showed a clear breach of the Code;

(2) On 16 June, 12 & 13 October and 13 December 2011 Councillor McCall's conduct towards Ms Jagger did not respect her position as Deputy Town Clerk. There was therefore a breach of Paragraph 3(1) of the Code (failure to treat others, with respect). The Sub Committee considered that his conduct went beyond reasonable criticism. On one occasion, he saw fit to apologise for his conduct and, on another, a fellow Councillor apologised for Councillor McCall's conduct towards Ms Jagger;

(3) Councillor McCall's conduct towards Councillor Harvey on 12 September 2011 did not constitute bullying. There was therefore no breach of Paragraph 3(2) of the Code (bullying any person). Because Councillor Harvey is a senior local politician both for the Town Council and Deputy Leader of the Opposition for SLDC it was considered that he must accept a certain amount of personal and political criticism of his actions;

(4) As regards the incidents on 16 June, 12 October and 13 December 2011 Councillor McCall's conduct towards Alix Jagger constituted bullying. There was therefore a breach of Paragraph 3(2) of the Code (bullying any person). The Sub-Committee made a distinction between the position of councillors and the position of officers. In this case the officer was endeavouring to comply with instructions from the Town Clerk and the Town Council as a whole; and

(5) The Sub-Committee was not satisfied that the sum total of Councillor McCall's conduct constitutes conducting himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute. There was therefore no breach of Paragraph 5 of the Code (conducting himself in a manner which would reasonably be regarded as bringing his office into disrepute). The behaviour of Councillor McCall, whilst called into question by the Sub Committee was not of such level of seriousness as to bring the Council into disrepute. The other breaches related to Councillor McCall's internal conduct and could not be said to detract from his role as a Town Councillor as perceived by the public.

Before reaching its decision on sanctions the Sub-Committee heard a brief statement from the Mrs Viv Tunnadine Town Clerk about how the Town Council had imposed upon Councillor McCall to restrictions on his access to the Town Council offices only allowed to him to attend formal meetings of the Council. The Sub-Committee also heard representations from Councillor McCall in which he stated that a continuation of such restrictions would make it untenable for him to continue as a Town Councillor.

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ADJOURNMENT OF CASE 2012/001

Following representations regarding sanctions to be applied, the Sub-Committee passed a resolution to adjourn the meeting, in order to give further consideration to the sanctions to be imposed.

9 RE-ADJOURNMENT OF CASE 2012/001

The Sub-Committee was of the view that there were apparent relationship issues between the parties and taking this into account along with all the other evidence and submissions,

Subsequently it was

RESOLVED –

- (1) To censure Councillor McCall for what is clearly unacceptable behaviour in relation to these identified breaches of the Code of Conduct;
- (2) To not support any further exclusion from the Council's offices and facilities. Councillor McCall has already served a period of approximately 6 months exclusion from the Council's offices save for Full Council and one other formal meeting and it would serve no purpose for there to be any further period of exclusion; and
- (3) To recommend to the Town Council that that it arranges for the following steps to be taken:
 - (a) an in house training session be arranged for all Town Councillors and officers with external facilitation;
 - (b) That Councillor McCall to be provided with training on personal relationships and working with others;
 - (c) That Independent Mediation be arranged to in order to seek to resolve relationship issues between Councillor McCall and Town Council officers/members.

The meeting ended at 4.55 pm