

DECISION NOTICE

RELATING TO ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT FOR MEMBERS OF OAKHAM TOWN COUNCIL BY COUNCILLOR MARTIN BROOKES

9 June 2016

Debbie Mogg

Monitoring Officer for Rutland County Council

DECISION STATEMENT

For the reasons set out within this report, a breach of the Code of Conduct for Oakham Town Council has been found. The report of the independent investigation found that:

- Councillor Brookes' actions were within the scope of the Council's code of conduct;
- that on two occasions Councillor Brookes published confidential information on a public blog and therefore breached the Code of Conduct;
- that in emails and in posts on the internet Councillor Brookes published comments about Councillor Lowe that were untrue and disrespectful and therefore breached the Code of Conduct;
- that in emails and in posts on the internet Councillor Brookes published comments about the then Councillor Dewis that were untrue and disrespectful and therefore breached the Code of Conduct;
- that in posts on the internet Councillor Brookes published comments about a member of the public that were derogatory and disrespectful and therefore breached the Code of Conduct;
- that in posts on the internet Councillor Brookes published comments about Mr Beech that were intimidatory and therefore breached the Code of Conduct;
- that in posts on the internet Councillor Brookes published comments about Mr Harrison that were untrue and disrespectful and therefore breached of the Code of Conduct.

In assessing this complaint I have considered the findings of fact from the investigation as set out in section 3 of this report and the considerations set out in section 4. I have concluded that Councillor Brookes' conduct has fallen short of that expected. I therefore consider that Councillor Brookes failed to comply with the following paragraphs of Oakham Town Council's Code of Conduct:

- Paragraph 4.1.1 - A Member of the Council shall behave in such a way that a reasonable person would regard as respectful
- Paragraph 4.1.2 A Member shall not act in a way which a reasonable person would regards as bullying or intimidatory
- Paragraph 4.1.5 A Member shall not disclose information which is confidential or where disclosure is prohibited

As such, I have recommended sanctions to the Town Council and these are set out in section 6 of this statement. Councillor Brookes has the potential to make a positive contribution to the Town Council as can be seen from the comments as section 5.

To reach its potential of becoming a high performing organisation, there is a general need for improvement in conduct across the Town Council. It is for this reason that I have made a further recommendation that the Town Council takes part in a conciliation process involving Councillor Brookes.

1 INTRODUCTION

- 1.1 This decision notice relates to complaints submitted against Oakham Town Councillor Martin Brookes between 27 July 2015 and 2 November 2015.
- 1.2 This complaint has been dealt with under Rutland County Council's Arrangements for Dealing with Conduct Allegations. The initial assessment of the complaints concluded that a full investigation was required.
- 1.3 As such, David Hayward of Wilkin Chapman LLP Solicitors was appointed as an external independent investigator on 6 October 2015.
- 1.4 In accordance with section 10 of these arrangements and with the agreement of the Independent Persons appointed to Rutland County Council's Conduct Committee I have departed from the arrangements in that I have determined that the investigators report will be accepted without referral to the Conduct Committee. The reasons for doing so are:
- (i) Councillor Brookes was given the opportunity to make representations to the Investigating Officer both at the commencement of the investigation and after the Investigating Officer had completed interviewing the complainants and witnesses. He declined to co-operate with the investigation.
 - (ii) The evidence on which the findings in the report are based is substantiated by documents posted on Councillor Brookes social media sites; therefore it is not a question of testing the evidence for accuracy.
 - (iii) If a hearing were to take place it would be necessary to circulate the report as a confidential document to Members of the Hearing Panel, the complainants and Councillor Brookes. On the basis of some of the issues raised in the complaints and the findings set out in the report it is considered highly likely that the report would be published on social media. I consider this would be detrimental to the effective and fair consideration of the matter at any subsequent hearing.
- 1.5 For the same reasons, I also determined that the investigator should proceed straight to a final report without issuing a draft version for comment by Councillor Brookes and the complainants. In taking this decision, I have considered carefully the possible disadvantage to all parties in not being able to comment on a draft, as against the risk of a premature publication of that draft with a consequent detriment to the effective and fair consideration of the issues.
- 1.6 Councillor Brookes was offered the opportunity for a detailed discussion on the findings of the investigation and draft decision but he declined.
- 1.7 Accordingly, based on the submission to the Council of the investigation report by the external independent investigator I have determined the findings as to breaches and the recommended sanctions in respect of these findings.
- 1.8 The full report will be published on Rutland County Council's website alongside this decision notice.

2 THE COMPLAINTS

- 2.1 16 complaints were assessed as requiring detailed investigation. The complaints were received from 10 individuals, 8 of whom were Members of Oakham Town Council. Three Members have since resigned from the Council and two made the decision to withdraw from the investigation (including one member who resigned).
- 2.2 The complaints can be categorised into three specific areas:
- (iv) Publication of confidential information
 - (v) Showing disrespect towards others in particular in emails and in posts on a blog; and
 - (vi) Behaving in a bullying and intimidatory manner, in particular in emails and in posts on a blog
- 2.3 Oakham Town Council adopted a Code of Conduct on 8 August 2012 and amended on 12 March 2014 in which the following paragraphs are included:

3. *When Does The Code Apply?*

- 3.1 *The Code applies whenever a person is acting in his/her official capacity as a member of the Council or a co-opted member in the conduct of the business or acting as a representative of the Council. The Code does not apply when a person claims to act or gives the impression of acting as a representative of the Council.*

4. *Member Obligations*

- 4.1 *A member of the Council has the following obligations. He or she shall –*
- 4.1.1 *Behave in such a way that a reasonable person would regard as respectful.*
 - 4.1.2 *Not act in a way which a reasonable person would regard as bullying or intimidatory.*
 - 4.1.3 *Not seek to improperly confer an advantage or disadvantage on any person.*
 - 4.1.4 *Use the resources of the Council in accordance with its requirements.*
 - 4.1.5 *Not disclose information which is confidential or where disclosure is prohibited*

3 SUMMARY OF FINDINGS OF FACT

- 3.1 On three occasions Councillor Brookes has posted information provided in confidence on the internet.
- 3.2 During the time Councillor Brookes has been a Town Councillor he has operated a blog under the identity Councillor Martin Brookes. The blog carries information about a number of areas of interest locally including jobs, local events, the local Member of Parliament and the Town Council. Each of these subjects, and others, are under separate headings on the blog. Posts are made to the blog on an almost

daily basis.

- 3.3 Under the Oakham Town Council heading there have been numerous posts of email exchanges between Councillor Brookes, the Town Council, other Town Councillors and other individuals. Details have also been posted of activities of the Town Council; these have included video recordings of meetings.
- 3.4 In respect of the complaints, numerous emails and posts on Councillor Brookes' blog were found between 25 June and 26 October 2015. These are detailed in section 5.6 of the investigation report.
- 3.5 A review of Councillor Brookes' blog has revealed a significant number of posts that have not been referred to in the complaints under investigation. These include comments and allegations about Oakham Town Councillors that show a pattern of behaviour by Councillor Brookes consistent with those matters referred to in the complaints.

4 REASONING AS TO WHETHER THERE HAVE BEEN BREACHES

- 4.1 Official capacity - I have considered the issues around the question of official capacity, in particular the activity by Councillor Brookes on his blog as this is the main cause of the complaints.
- 4.2 Taking all of the relevant facts into consideration I conclude that Councillor Brookes was acting in an official capacity whilst posting confidential information. This is because he was only in receipt of such information in his capacity as a member of the town council.
- 4.3 Similarly, I believe he was acting in an official capacity when posting comments about other individuals on his blog. This is because the blog is attributed to Councillor Martin Brookes, and in every case the content of the posts relate to the business of the Town Council or other Town Councillors, under the heading of Oakham Town Council.
- 4.4 Confidential Information – The investigation dealt with 4 instances where it was alleged that Councillor Brookes disclosed confidential information. In all instances the evidence demonstrates that the information was disclosed, and in two instances it is evident that Councillor Brookes deliberately ignored the request for confidentiality and breached the code of conduct.
- 4.5 Respect – in assessing whether Councillor Brookes failed to treat others with respect, numerous instances were considered by the investigator. Of these instances, there is evidence that Councillor Brookes failed to treat Cllr Lowe, (former) Cllr Dewis, Mr Harrison and a member of the public with respect. Councillor Brookes breached the code of conduct by making false allegations about individuals on his blog and in emails. The effect of these allegations could adversely affect the reputation of the individuals involved.
- 4.6 Bullying or Intimidatory Behaviour – I have considered the findings of the investigation and differentiated the behaviour towards Mr Beech from the behaviour towards other councillors. In respect of the latter, there has been no breach of the code of conduct. However, I support the findings of the investigation

in respect of the material published about Mr Beech. The level of acceptable conduct towards a member of the public is generally accepted as being of a higher standard than is acceptable towards a fellow councillor and it is evident that the blog entries complained about (dated 25 June and 25 July 2015) contained unnecessary and unacceptable content and was intended to intimidate Mr Beech. In respect of this instance Mr Brookes has breached that part of the code which requires members to not act in a way which would be regarded as bullying or intimidatory.

4.7 Disrepute – this was reviewed by the investigator and their opinion was that much of the conduct referred to would be likely to diminish a reasonable member of the public's opinion and belief that the Council can fulfil its role effectively. However, the Town Council's code of conduct has no reference to disrepute therefore this cannot be considered as part of my decision.

4.8 Using position for personal advantage – no breach is found

5 CONCLUSION

5.1 In conclusion, it is evident from the investigation report that Councillor Brookes has breached paragraphs 4.1.1, 4.1.2 and 4.1.5 of the Council's code of conduct and that his behaviour has fallen short of that expected of an elected member. There is an immediate need for improvement.

5.2 The investigation identified that at times Councillor Brookes was responding to what he considered to be inappropriate conduct towards him. This does not excuse Councillor Brookes' behaviour, but does indicate a wider problem that should be addressed by the Town Council. My own knowledge of the Town Council supports this view and I have observed meetings footage and emails between members of the council which demonstrate that there is fundamental need for an improvement in the levels of conduct displayed.

5.3 The investigation also highlighted the view shared by some of the complainants, which was that Councillor Brookes has the potential to be an effective Town Councillor if he could channel his energy into more positive contributions and accept differing views. This is an opinion that I share, having discussed numerous issues relating to the Town Council with Councillor Brookes over the past 12 months.

6 RECOMMENDATIONS IN RESPECT OF SANCTIONS

6.1 I consider the following actions to be appropriate to address the breaches that have been found and am recommending these sanctions to the Town Council:

1. A formal letter should be issued to Councillor Brookes;
2. Councillor Brookes should be formally censured;
3. A press release should be issued by the County Council to coincide with the publication of this decision notice;
4. Oakham Town Council should not appoint Councillor Brookes to any Committees or working groups until his conduct improves;
5. Oakham Town Council should arrange for Councillor Brookes to undergo training to enable him to channel his contribution to the Town Council in a

more productive manner. Such training should include the appropriate use of social media and effective debating skills.

7 FURTHER RECOMMENDATION IN RESPECT OF THE TOWN COUNCIL

- 7.1 It is evident from the investigation report and supporting evidence that there is much scope for improvement on all sides of the Town Council.
- 7.2 All Councillors have an individual and collective responsibility to act in the best interests of the town and ensure that the council is effectively managed.
- 7.3 The Town Council has the potential to be a high performing organisation if it overcome the difficulties and conflict it is currently experiencing. Rutland County Council has a strong wish to see this happen and for the Town Council to operate as an effective partner in the positive development of Oakham. As such I am recommending to the Town Council that it takes part in a conciliation process involving Councillor Brookes.

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.