

STANDARDS REPORT

REFERENCE SC/20/01

1. INTRODUCTION

1.1 This report has been commissioned by North Lincolnshire Council's Monitoring Officer following a decision of North Lincolnshire Council's Standards Committee Assessment Panel. (*Please refer to Decision Record dated 11th August 2020 at Appendix 1*)

1.2 The complaint was initially received on 25th February 2020 and was based on three elements. These elements (in brief) were:-

1.2.1 **Element 1** - the appointment of two co-options on the Garthorpe and Fockerby Parish Council ("GFPC");

1.2.2 **Element 2** - the Conduct of Cllr John Smith;

1.2.3 **Element 3** - the Publication of Declarations of Interests specifically relating to Member Declarations.

1.3 The Assessment Panel met on 11th August 2020 to consider the complaint in relation to Cllr John Smith (hereafter referred to as 'Cllr Smith'). The Assessment Panel in conjunction with the Independent Person's report considered the complaint and it was recommended as follows (*extract from Decision record dated 11th August 2020*):-

- *"The Assessment Panel has considered very carefully the papers submitted under this complaint, including the views of the Independent Person, of which the panel is particularly mindful.*
- *The Panel is also mindful that the allegations concerning a failure to declare and or register the appropriate financial interests as well as other multiple allegations of financial impropriety were, in accordance with the Protocol governing such matters, referred to Humberside Police for consideration and after such consideration are to be subject to no further action by Humberside Police. Accordingly, these issue are now removed from our jurisdiction.*
- *That said, the Panel, mindful of the views of the Independent Person, considers it appropriate that a tightly focussed investigation be undertaken into the comments attributed to Cllr Smith concerning potential co-optees to the parish council who Cllr Smith it is alleged referred to in an email as: "These people are trouble causers". The investigation should focus on whether this amounts to a breach of paragraph 3.4 of the Code of Conduct.*
- *For the sake of completeness, the purpose of such investigation is not to investigate the procedure the parish council adopted in maintaining its website or filling the casual vacancies as this is a matter for the parish*

council as a decision making body and as such falls outside the remit of the Code of Conduct.”

- 1.4 As mentioned in Paragraph 1.3 above, the purpose of this report is to investigate the email only as other aspects of the complaint have already been addressed by the Independent Person and the Standards Assessment Panel. For the avoidance of doubt, the other parts of the complaint were set aside from the Council's jurisdiction and no further actions were taken in that regard.
- 1.5 This is a final report and will be sent to North Lincolnshire Council's Monitoring Officer and to North Lincolnshire Council's Standards Committee for consideration.
- 1.6 In preparing this report, The Monitoring Officer has commissioned us, Samik Bhadra and Katy Hague to complete this report including conducting interviews with the complainants and Cllr Smith himself.
- 1.7 We have contacted all the complainants via email which are:-
 - 1.7.1 Mr Robert Ward,
 - 1.7.2 Mrs Tracey Ward,
 - 1.7.3 Mr Clive Snellgrove and
 - 1.7.4 Mr Warrick Buckman.
 - 1.7.5 We have managed to interview all of the complainants except Mr Buckman. As Investigating Officers we made several attempts to contact Mr Buckman on 18th September 2020, 5th, 19th and 28th October 2020, however, we did not receive a reply from him to confirm whether he was willing to participate further in an interview regarding this investigation. Subsequently, Mr Buckman explained that he removed himself from the investigation due to a receiving a solicitors letter on behalf of Cllr Smith which he perceived as 'threatening'.
- 1.8 Prior to the interviews we explained to all interviewees that the purpose of the investigation was to only consider the email dated 18th June 2019 sent by Cllr Smith. There are background circumstances which lead to the context of the email. Therefore, background information from all the interviewees has been sought to understand the nature of this complaint.
- 1.9 The email in question (*dated 18th June 2019 at 11:36am*) was released to the complainants as part of a Freedom Of Information (FOI) request but the address fields were redacted so the sender of the email could not be identified. This is in accordance with normal data protection practice. An unredacted version of the email has been disclosed to us as investigating officers by the Parish Clerk for the purposes of this investigation. The email was a private communication between Cllr Smith and the Parish Clerk and it is confirmed by Cllr Smith during his subsequent interview that he sent the email.
- 1.10 The email reads as follows:-

‘Something is going on here! These people are trouble cause[r]s. PLEASE DELETE.’

Throughout the rest of this report, we shall only refer to this specific email and not any other documentation.

2. NATURE OF COMPLAINT

2.1 The complainants submitted their complaint as a bundle which amounted to 31 pages. The complaints were identical and bundled together into one to prevent unnecessary triplication of effort. The complaint was made against Cllr Smith and concerned the alleged conduct of Cllr Smith. Cllr Smith is a councillor and the current Chair of Garthorpe and Fockerby Parish Council (GFPC).

2.2 In accordance with the direction of the Assessment Panel, the remit of this investigation is to only consider the email sent by Cllr Smith to the Parish Clerk. The other 2 elements (element 1 and 3 outlined above in paragraph 1.2 above) raised by the complainants in their original complaint have already been considered by the Assessment Panel and therefore not part of this investigation.

2.3 The only remaining part of the original complaint (element 2) is to consider the conduct of Cllr Smith sending the email dated 18th June 2019 to the Parish Clerk following the influx of the co-option applications on the Garthorpe and Fockerby Parish Council.

3. CODE OF CONDUCT

3.1 The Council’s Code of Conduct and accompanying arrangements were drafted pursuant to the Localism Act 2011. The Standards Committee directed that we, as the investigating officers, consider a potential breach of paragraph 3.4 of the Code of Conduct, namely whether Cllr Smith conducted himself in a manner which could reasonably be regarded as bringing his office or Garthorpe and Fockerby Parish Council into disrepute.

4. METHODOLOGY AND INTERVIEWS CONDUCTED

4.1 We have interviewed Mr Robert Ward and Mrs Tracey Ward, Mr Clive Snellgrove and Cllr Smith. All interviews were conducted via video call through either Microsoft Teams or Skype. Prior to the interview, each interviewee was given documents. These documents were:

- a copy of the Code of Conduct
- a redacted copy of the email dated 18th June 2019 at 11:36am.

The interview notes were written and typed up by the investigating officers and sent to the interviewees for their confirmation.

4.2 In all interviews as part of this investigation, all participants were given the chance to respond via email to the typed-up notes of their interview. They were all given to opportunity to confirm the accuracy of the notes and make amendments if necessary. Cllr Smith declined to confirm the accuracy of the notes written by the investigating officers explaining that there were errors in the notes. We as the investigating officers emailed Cllr Smith asking him to confirm the notes or to offer any suggested amendments. We invited Cllr Smith to take part in a further interview to discuss these errors. Cllr Smith declined the opportunity to have a further interview or to sign/confirm the notes as they stand. We contacted Cllr Smith on two further separate occasions and no response was received. We as the investigating officers believe that the notes from the interviews are true and accurate and the unsigned notes of our interview are referenced within this report.

4.3 All of the complainants separately wish to make the point that they received correspondence from solicitors on behalf of Cllr Smith. In their own words, they found the letter to be 'threatening' and 'bullying' and caused 'considerable distress.' For the purposes of this report, these letters are a separate private matter between the parties concerned. Consequently, the letter forms no part of this investigation.

5. THE EVIDENCE

Mr Robert and Tracey Ward – interviewed 5th November 2020

5.1 Mr Robert Ward and Mrs Tracey Ward were both interviewed on 5th November 2020 at 10:40am. Mr and Mrs Ward are husband and wife and confirmed they were happy to be interviewed together for sake of ease. Mr and Mrs Ward conducted their interview via video call on Skype. They were both involved in the original complaint against Cllr Smith and we directed them to the decision record of the Assessment Panel of the Standards Committee.

5.2 We explained to Mr and Mrs Ward that our position was to only investigate the contents of the email by Cllr Smith. Mr and Mrs Ward did not have confirmation that the email dated 18th June 2019 was sent by Cllr Smith as they had only seen a redacted version of the email blocking the address of the sender. During the interview, it was confirmed to them that the email was sent by Cllr Smith.

5.3 Regarding the contents of the email, Mr and Mrs Ward both stated that "*they were alarmed at what was said about them from Cllr Smith.*" Mr and Mrs Ward said: "*we didn't understand why we would be labelled as 'trouble causers'.*" In their own words, they stated that "*a great deal of effort went into our application to apply to be co-opted onto the Parish Council and 2 others were co-opted on to the Parish Council without an interview*".

5.4 Mrs Ward said; "*The deep burning question for us is why did Cllr Smith think they were trouble causers? In our view, all we did was apply to the Parish Council.*"

Mr and Mrs Ward further went on to say that *“the question for us is whether there is a deeper situation that anybody should be aware of?”* They stated that they felt this was Cllr Smith’s perception of them. They further stated that they *“felt that Cllr Smith was trying to influence the opinion of the Parish Council to ensure we were rejected.”*

5.5 Both Mr Ward and Mrs Ward stated in their own words that they felt: *“demeaned, belittled and extremely badly treated”* throughout the co-option process.

5.6 Mr Ward and Mrs Ward were of the view that by Cllr Smith sending that particular email he has breached the Code of Conduct, they were of the view that paragraphs 3.1,3.2,3.4 and 3.6 have been breached. They claim that Cllr Smith has failed to treat them with respect (paragraph 3.1), bullied and harassed others by asserting his opinion about them (paragraph 3.2), the conduct of sending the email has brought the council into disrepute (paragraph 3.4). Separately from the email, they expressed concerns stating that: *“he has used his position to gain work for his business and gain an advantage for himself.”* (paragraph 3.6).

5.7 Finally, Mr and Mrs Ward explained that, in general, they were aggrieved at the process of the co-option. They specifically pointed out that the words in the email say ‘PLEASE DELETE’. They stated that this makes them question whether many emails have been deleted and what emails have been sent to seek to influence others regarding themselves.

Mr Clive Snellgrove – Interviewed on 10th November 2020

5.8 We interviewed Mr Snellgrove on 10th November virtually via Microsoft Teams video call. Mr Snellgrove confirmed he was content to take part and understood purpose of the investigation in accordance with the direction of the Assessment Panel. We explained to Mr Snellgrove that the purpose of the interview was to only consider the contents of the email dated 18th June 2019. During the interview it was also confirmed to Mr Snellgrove that the sender of the email was Cllr Smith as he had only viewed the redacted version of the email.

5.9 Mr Snellgrove explained that he has always showed interest in Garthorpe as a village and he would sometimes read the minutes on the Parish Council website. In his view and in his words *‘As I was reading the minutes, I found things, in my view, not correct and the more I looked [into things] the more I found [matters] didn’t add up.’* He further explained that these were the reasons which prompted him to apply within the co-option process.

5.10 When two vacancies were advertised to apply to be on the Parish Council, he thought it would be a good opportunity to give back to the community and he hoped that he could put forward suggestions to the village. Mr Snellgrove expressed an interest in the position which he sent to the Parish Clerk via email.

- 5.11 Mr Snellgrove believed along with the complainants that they would be attending a face-to-face interview. The face-to-face interview didn't transpire and they were invited to a meeting where a further application form was filled in by all the applicants on separate desks in silence. Mr Snellgrove stated that this process was not how he thought it was going to be handled according to a previous statement made by Cllr Briggs (at a previous Parish Council meeting where the Ward Councillor attended) detailing how the process of the co-option was going to be followed.
- 5.12 In Mr Snellgrove's view, this was not how the co-option process was explained to be and more concerning to him, he was told that four people applied to be co-opted on the Parish Council and none of them were successful. Further down the line, the complainants received information that two people were suddenly co-opted onto the Parish Council. Mr Snellgrove explained that this is the reason which spurred him on to submit a Freedom of Information Request to the Parish Council.
- 5.13 At that point Mr Snellgrove received an FOI response with a redacted email stating: 'Something is going on here, these people are trouble causes. PLEASE DELETE'. Mr Snellgrove's stated that *"I feel hard done by and this email highlighted to me that procedures had not been followed and had been done incorrectly."* In Mr Snellgrove's words: *"someone down the line had done things back handed."*
- 5.14 Mr Snellgrove was of the view that the email was aimed at all four of the complainants. Mr Snellgrove stated in interview: *"I am not a trouble causer, I was wanting to do my best for the Parish Council and thought I was entitled to apply."* He was aware that there was a long standing feud between Cllr Smith and one of the complainants but he stated: *"this had nothing to do with me."*
- 5.15 Mr Snellgrove's view is that the sending of the email by Cllr Smith breached the Code of Conduct, in particular paragraphs 3.1,3.2 and 3.5. Mr Snellgrove was of the view that Cllr Smith had not treated them with respect and courtesy (paragraph 3.1). He was of the view the email could be seen as bullying the clerk into having an opinion about the complainants and therefore in his view breached paragraph 3.2. He stated he felt he was entitled to apply for the position on the Parish Council and the email sought to frustrate all 4 of the applicants getting on the Parish Council (paragraph 3.5). Therefore, his submission was that Cllr Smith has breached paragraph 3.4 as all the above brings the Parish Council into disrepute.
- 5.16 Mr Snellgrove is of the view that by sending that email, Cllr Smith has lost integrity by doing so. Mr Snellgrove further claimed that: *"In my opinion it is not being open and even though Mr Smith might think he is being honest in the email, I do not think he is."*

Councillor John Smith – Interviewed on 16th November 2020

- 5.17 We interviewed Cllr Smith on 16th November 2020 via Microsoft Teams. Cllr Smith was content to take part in the investigation although he expressed his concern as to how long the investigation was taking. Cllr Smith was keen to bring the investigation to a conclusion and he was content to take part. We referred to the email dated 18th June 2019 which was sent by him and we explained that the purpose of this investigation was to consider this point only.
- 5.18 Cllr Smith made it clear that he has never been asked whether he had sent the email on the 18th June 2019. Cllr Smith stated that: *“no-one has asked me I have sent the email but if they had asked me, I would have said yes.”* He explained that he has never denied sending the email and this was the first time he has discussed the email or this investigation with anybody.
- 5.19 Cllr Smith explained that he has served as the Chair on the Garthorpe and Fockerby Parish Council for twelve months and outside of his voluntary commitments he runs a private business called Marshfield Enterprises.
- 5.20 We discussed the background of the complaint with Cllr Smith and he referred to many points within the complaint. Cllr Smith in his interview explained that he has seen reasons why certain tasks have slowed things down for the Parish Council. He stated he has always tried to help and would *“try get things moving as quickly as possible.”* Cllr Smith expressed in interview that: *“someone is out to cause problems, not necessarily to prove something has been done wrong or criminally as otherwise I wouldn’t be here talking about it.”* He further stated: *“I was going the extra mile for the Parish Council and that people were trying to penalise me for it.”*
- 5.21 In relation to the email he sent, Cllr Smith claimed that there were an unusual amount of people applying for the co-option vacancies 48 hours before the initial meeting bearing in mind that the positions had been vacant for two years. Therefore, Cllr Smith thought this was strange and of concern to him was that one of the applicants did not exist on the electoral role and was not from the village.
- 5.22 He explained that he sent the email to advise and warn the Parish Clerk in his words that *“something was going on as it was not normal”* that many applications would come in so quickly within a short period of time.
- 5.23 Cllr Smith further explained that he has had a long dispute (of around 20 years) with one of the complainants. This particular complainant had instigated previous complaints about incidents in which they alleged Cllr Smith had taken

part. However, following investigations, Cllr Smith explained that these allegations have found to be non-existent.

- 5.24 When Cllr Smith was asked whether he regretted sending the email, he explained that he regretted sending it but he thought at the time things needed to be highlighted. He said that *"It was more to advise and warn the Parish Clerk that there was trouble ahead."* He further stated that *"In my industry if you see an issue you highlight it if you think it is going to become a danger."* He explained that he was trying to highlight these dangers/issues to the Parish Clerk but it has been taken as something else.
- 5.25 When clarifying with Cllr Smith regarding whether the email was aimed at a particular group of people, he explained that it was not aimed at a wider group. However, Cllr Smith stated that: *"I do not want to say too much as it would point directly to the person or the person(s) concerned."*
- 5.26 We asked Cllr Smith whether he feels the Code of Conduct has been breached by himself. He explained that: *"everybody interprets wording in a different way."* Cllr Smith further claimed: *"I did not do anything intentionally or knowingly to bring the Parish Council into disrepute."* He acknowledged, upon reflection, that: *"I may have made an error in adding on to the email PLEASE DELETE"* and therefore he accepted that those words would probably breach the Code of Conduct. He further commented that *"everyone reads things in different ways."*
- 5.27 Cllr Smith was of the view and submitted that he has been *"open and honest."* He was trying to highlight potential issues ahead and he stated that he acted with integrity by making the Parish Clerk aware of the information. Cllr Smith explained again that he has never denied sending the email and it was redacted by somebody else and so he felt in his words that *"this matter comes down to poor wording."*
- 5.28 In addition to the above, Cllr Smith explained that the role is unpaid and there is little training given for the role. He explained that he was not involved in the process of co-option and left this to the Parish Clerk to sort out. He did not take part in the voting process as he did not feel he should take part in the voting process due to the long-standing dispute with one the complainants. He also recalls that there was a letter signed by the complainants which was put forward indicating that Cllr Smith should not take part in the voting process for the co-option. Cllr Smith maintained that he was not involved in the process.
- 5.29 Cllr Smith explained that: *"none of us are perfect"*. He further stated that *"it seems strange that 4 people have to get together to put a complaint in with 3 separate complaints all worded the same. This seems very strange by any shadow of doubt."* Cllr Smith elaborated further regarding the email and explained that: *"one person can read a document which can then be interpreted differently to the next person."*

6. CONCLUSIONS RELATING TO THE COMPLAINTS MADE BY MR ROBERT WARD, MRS TRACEY WARD, MR CLIVE SNELGROVE AND MR WARRICK BUCKMAN.

- 6.1 We have considered the email dated 18th June 2019 sent from Cllr Smith to the Parish Clerk. The Parish Clerk was able to provide us with the unredacted version of the email. The Parish Clerk was the only intended recipient of that email as there were no other recipients in the address field. It is clear the email was a private communication which was never intended to be revealed to the wider public. We have reviewed original complaint submitted by the complainants including the supporting appendices to understand the background and the nature of the complaint. For the purposes of this narrow investigation and conclusion, we must only consider the contents of the email sent by Cllr Smith and whether this breached the Code of Conduct.
- 6.2 Specifically, we have endeavoured to steer the focus of the interviews to the 18th June 2019 email and whether this amounted to a breach of the Code of Conduct by Cllr Smith. This particular email is part of a much wider picture as the complainants were dissatisfied with how the co-option process was handled by the Parish Council. The email is related to the co-option process as it was written by Cllr Smith in response to a huge influx of applications expressing interest for the vacancies advertised by the Parish Council; just 48 hours before the meeting.
- 6.3 Cllr Smith by his own admission in interview felt it was important to advise the Parish Clerk that these complainants were 'trouble causers.' Cllr Smith explained he attempted to warn the Clerk that trouble was ahead and did not feel he was doing anything wrong. Whilst we may acknowledge this, the words 'PLEASE DELETE' were included in the email which implies that he did not want this email to be traced. We can conclude from these words that he felt uneasy about the contents of that email most probably believing that it was not appropriate to be sending this type of message/warning to the Parish Clerk.
- 6.4 Cllr Smith explained in his words: "*it wasn't done out of nastiness and I didn't intend to cause harm.*" Unfortunately, this did cause harm because it was released to the wider public as a result of an FOI request. In our view this email could have influenced the Parish Clerk's view of the complainants. The co-option process should be a neutral process, however, on the back of the expression of interest emails, Cllr Smith had given his opinion that these people were 'trouble cause[r]s' to the Parish Clerk. Additionally, although Cllr Smith in his interview explained that the co-option process was to be handled by the Clerk, However in our view, by sending this email, he was clearly involved to a certain degree. The opinion of Cllr Smith carries weight due to his official capacity as Chair of the Parish Council which means it has an impact.

6.5 In order to determine whether the email sent by Councillor Smith to the Parish Clerk constituted a breach of the Code of Conduct; the following points were considered:

6.5.1 In relation to the email, we considered that this could give the public perception that the Parish Council was not impartial in its processes. The email has a potential to cause harm to public perceptions in that the Parish Council was not impartial in its processes.

6.5.2 In relation to the email being seen by the complainants, it is clear from their interviews that this did cause some harm to them personally. The complainants expressed their concern there has been some prejudice towards them throughout this process and they felt an opinion has been made prior to beginning of the co-option process. We can support the view of the complainants as per their interviews.

6.5.3 The intention of the email sent by Cllr Smith was a warning to the Parish Clerk but in our view the email has undermined the integrity of the Parish Council and of himself. The applicants were applying for a vacancy which was available to any person within the community. The email does not appear to be objective and seeks to influence others of his opinion. Furthermore, we acknowledge that the email was sent from Cllr Smith's private email account rather than his Parish Council account, however, nevertheless it was an email in response to professional business relating to the Parish Council.

6.5.4 Cllr Smith is the current chair of the Parish Council and therefore in a senior role with levels of responsibility. In this role and as a public office holder, it is expected that the person satisfying the role is beyond reproach. The view of Cllr Smith and the Parish Council has been comprised as the complainants have seen Cllr Smith's views about them applying for the vacancy within that email.

6.5.5 In terms of mitigation for Cllr Smith, the following points have been considered:

6.5.5.1 Cllr Smith has only been found to send one email and no other email evidence has been brought to light which questions his conduct.

6.5.5.2 Cllr Smith regrets sending the email and never intended to cause harm to anyone by sending the email.

6.5.5.3 Cllr Smith has been honest about the sending the email throughout the process and has never denied sending it.

6.5.5.4 Emails can be interpreted in different ways as tone and emotion are removed within written communication. Therefore, it can always be subjective when interpreting an email solely on its own without the background.

6.6 We would like to thank everyone for their participation and co-operation in their interviews particularly in the light that this process has taken longer in the prevailing circumstances.

7. CONCLUSION

7.1 Therefore, we concluded that Councillor Smith should not have sent that email to the Parish Clerk and by doing so was in breach of the:

7.1.1 Code of Conduct paragraph 3.4; you must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a Member of the Authority, into disrepute.

7.1.2 On account of the reasons stated, we do find that Councillor Smith breached paragraph 3.4 of the Code of Conduct mentioned above.

Samik Bhadra
Katy Hague
Investigating Officers
November 2020

Appendix 1

Decision Record - Reference SC/20/01