

Minutes of a meeting of the Finance and Assets (Ethical Governance) Sub-Committee held in the Council Chamber, The Grange, Nutholt Lane, Ely on Friday 18th March 2022 at 3:00pm

PRESENT

Councillor Paola Trimarco (Chairman)
Councillor Charlotte Cane
Councillor Mark Goldsack
Councillor Simon Harries
Councillor Julia Huffer
Councillor Joshua Schumann (As a Substitute)
Councillor Jo Webber (As a Substitute)
Mrs Gillian Holmes – Independent Person

Subject Member – Councillor Matthew Downey

IN ATTENDANCE

Maggie Camp – Legal Services Manager, Monitoring Officer and
Legal Adviser to Sub-Committee
Adrian Scaites-Stokes - Democratic Services Officer
Councillor Bill Hunt
Councillor Lisa Stubbs

5. **APOLOGIES AND SUBSTITUTIONS**

Apologies were received from Councillors David Brown and Bill Hunt. Councillors Joshua Schumann and Jo Webber acted as a Substitute Members for this meeting.

6. **DECLARATIONS OF INTEREST**

No declarations of interest were received.

7. **MINUTES**

The Sub-Committee considered the revised minutes, circulated previously. The Chairman pointed out a minor typographical error on page 5, paragraph 3, where the word 'serous' should read 'serious' and this amendment was agreed.

It was resolved:

That the revised minutes of the meeting 29th July 2021, previously circulated and as further amended, be approved as correct and be signed by the Chairman.

8. **FAILURE OF DISTRICT COUNCILLOR TO COMPLY WITH SANCTIONS IMPOSED BY SUB-COMMITTEE**

The Committee considered a report, reference W162 previously circulated, that detailed the failure of Councillor Matthew Downey to comply with two of the sanctions imposed at the Finance & Assets (Ethical Governance) Sub-Committee meeting on 29th July 2021.

The Monitoring Officer advised the Sub-Committee that Councillor Downey had not apologised nor undertaken any training. Members were reminded that this meeting was not about the original meeting but about the recommendations to impose further sanctions.

However, an apology had been received from Councillor Downey via email prior to this meeting and was tabled.¹ The apology stated:

I am writing to apologise. Black people and other people of colour in both Ely and the rest of East Cambridgeshire have been done a disservice. In 2020 I proposed a motion stating that Black Lives Matter and outlining several policies for the council to combat racism. This motion was butchered, with the words 'Black Lives Matter' being deleted. Following this, I tweeted that the Conservative Group which runs the Council is racist. I highlighted several tweets which I believed to be racist and which were issued or liked by notable Conservative Councillors on East Cambridgeshire District Council. Subsequently, the Conservative Leader of the Council, Anna Bailey, made a complaint about my tweets.

Anna Bailey has been upset by my comments. My intention was not to upset Anna Bailey. My intention was to highlight the racism I believe is present in our council. The Ethical Governance Sub-Committee, which is dominated by the Conservative Group, has instructed me to apologise.

My intention was to highlight the racism I believe is present in our council. I am sorry that this process has taken energy away from fighting racism in East Cambridgeshire, and that Black people and other people of colour in our area have been so ill-served. The true victims here aren't white Councillors but Black people and other people of colour who face discrimination. For the rest of my term as Councillor for Ely East I will fight for these communities and endeavour to ensure their voices are heard.
Cllr Matthew Downey, Ely East.

Councillor Julia Huffer proposed the recommendations within the report, seconded by Councillor Jo Webber.

Councillor Cane then proposed that the Sub-Committee note that since the report had been produced Councillor Downey had complied with the sanctions so no further action needed to be taken. This was seconded by Councillor Harries.

Some Members would not support this amendment as it would do a disservice to the Council. Councillor Downey's decision to finally comply just prior to the meeting brought his office into disrepute and the matter could not be just swept

¹ The apology was accompanied by copies of 'tweets' that had been 'liked' by various Conservative Members.

under the carpet. The apology offered had re-iterated everything that had been stated previously, that had been the cause of the original complaint regarding Councillor Downey's behaviour. To wait until 11:52am that morning to offer an apology was not good enough. As a Member, different standards of behaviour were expected and these had not been met by Councillor Downey.

It was disappointing that this issue had to be re-visited and there was no excuse why the sanctions had not been complied with over the last six months. It showed a lack of respect for the Code of Members' Conduct, the Complainant, all other Councillors and Council officers.

One Member, who had not been involved in this issue previously, noted that Councillor Downey had accepted the sanction for training. The timing of the apology was foolhardy and it was not in fact an apology, as there was no regret expressed in it.

The proposer of the amendment spoke in favour of the amendment stating that Councillor Downey had complied with the requirements to write a letter of apology and agreed to attend training. There was no argument relating to the training element but there was with the suggestion that the apology was not one. The letter did state that Councillor Downey was apologising and was sorry. Councillor Downey had been shaken by the last Sub-Committee meeting and had taken time to get to grips with the outcome. The Sub-Committee had made its decision and it had to be abided by. It was important to accept the Councillor Downey had complied and any further sanctions would amount to bullying.

The Chairman invited Councillor Downey to address the Sub-Committee. Councillor Downey stated that initially he had been minded not to apologise, as he stood by what he had previously said. No deadlines had been set by the Sub-Committee on the sanctions but he had complied with them. He was genuinely sorry and had been convinced to apologise.

The seconder of the amendment acknowledged that Councillor Downey had taken time to apologise. Consideration should be given to somebody who had been put under pressure, as this could prevent them from thinking straight. He had reasons for his views and thought he was right. He had agreed to do training and had issued an apology.

When put to the vote the amendment was declared lost.

In speaking on the original motion, Members acknowledged that all Members had pressures but it had taken so long to offer an apology. However, the letter received from Councillor Downey was clearly not an apology. This behaviour could not be tolerated, as all Councillors had to be seen to be better than that. Councillor Downey had failed to comply and had to be coerced into providing his letter of apology.

This was difficult for Members to resolve, as Councillor Downey's previous comments were unfair. The previous Sub-Committee had decided on sanctions but Councillor Downey had not acted on them, because he did not want to apologise. He had refused to act on the sanctions and had to be convinced to offer an apology. This showed a disregard for the Council's Constitution.

It was accepted that Councillor Downey was fighting for his principles but he had to keep to the decision of the Sub-Committee. His letter had not been sent directly to the Complainant until after it had been forwarded to the Monitoring Officer, who had prompted its submission to the Complainant. This was inappropriate behaviour and an apology had to be made.

The Monitoring Officer confirmed that she had received Councillor Downey's letter by email at 11:52 that morning, had asked if it had also been sent to the Complainant and this had occurred at 12:46.

Other Members contended that Councillor Downey had complied with the original sanctions, so the Sub-Committee should not be discussing this further. A query was raised questioning under what power within the Council's Constitution permitted the request for another letter.

The Independent Member advised the Sub-Committee that the sanctions had been valid and made by a properly convened Sub-Committee. This meeting was not an appeal against those sanctions but to decide whether those sanctions had been complied with. The Sub-Committee had to decide whether the delay in apologising was reasonable, as it had taken 9 months, and whether it accepted the apology and the offer of training. It also had to consider whether this behaviour undermined the Council's standards regime.

Councillor Schumann then suggested that the Sub-Committee move to censure Councillor Downey, issue a press release and require a proper letter of apology be sent to the Complainant. Therefore the proposal, as seconded by Councillor Huffer, was for Councillor Downey to re-write a letter of apology to the Complainant, he be censured by the Sub-Committee and that a press notice been published. A suggestion was made to add dates when these should be completed.

The Chairman invited Councillor Downey to address the Sub-Committee. Councillor Downey accepted that the Sub-Committee could call for sanctions, as it was mandated within the Code of Conduct. However, Councillors had to be honest and he could not apologise for calling other Members racist, as that was what he believed.

The Independent Member warned that Members should not say things that could be a breach of the Code.

Councillor Downey continued and stated that the sanctions should be looked at in the context of his alleged crime. Discussions were irrelevant and the tweets which were 'liked' were racist and instilled racism within the Conservative Group. Councillor Harries stated that what Councillor Downey had said was undeniably true.

In reply to Members' questions, the Monitoring Officer explained that there would be no appeal available against any sanctions imposed. Paragraph 4.2 of the report set out the sanctions that were available.

The Sub-Committee discussed clarifying the proposal and the timescales when the sanctions should be complied with and the proposal was amended in accordance with the suggestions made. The proposer and seconder of the motion were content with the amendments which included setting a time of 30 days to provide the re-written letter of apology, that the censure document and press notice both be drawn up by the Monitoring Officer and agreed by the Sub-Committee Chairman and that the training should be undertaken within 6 months.

When put to the vote the proposal was declared carried.

It was resolved:

- (i) That further sanctions be imposed on Councillor Downey for failure to comply with 2 of the sanctions imposed by the Finance & Asset (Ethical Governance) Sub-Committee meeting on 29th July 2021; and
- (ii) That those sanctions be as follows:
 - That a further letter of apology be re-written and sent to the Complainant within 30 days;
 - That the Monitoring Officer be authorised to draw up a Censure document to be agreed with the Chairman of the Sub-Committee;
 - That the Monitoring Officer be authorised to prepare a Press Notice to be agreed with the Chairman of the Sub-Committee;
 - That Councillor Downey undertake training within 6 months.

The meeting concluded at 4:01pm.