Complaint and Eguality Working Group

Progress and Current Status

“Complaint Regarding Failure To Ensure Equal Opportunities” was received from a member of the public on Saturday 23 May 2020.

As we all know, following the May 2020 AGM, some Lowestoft Town Councillors had made public allegations of sexist and politically motivated voting in the press and on social media. Some of these public comments referred to separate complaints which had been submitted to outside bodies. Some public comments named or otherwise identified individual Town Councillors who were the subject of these allegations. It was a very difficult time for all concerned, but it should be noted that none of the complaints against individual Councillors were upheld.

However, at the time that the Town Council complaint was received from a member of the public, those complaints were still open and under investigation, and social media discussion regarding the recent allegations in the press was still taking place. The complainant acknowledged this in the Town Council complaint, but qualified their complaint as follows:

There have been a number of allegations about sex bias within the council, In light of comments that I have received on social media I would like to make it clear about what this complaint is not about.

• It is not about the fact that all positions of power within the town council are now held by men. This is disappointing but sadly not unusual.

• Other allegations such as that it was part of a “highly organised and well-orchestrated takeover”. This may or may not be true, but it is not the subject for this complaint.

• I am not suggesting that any councillor is overtly sexist or that anything illegal occurred during the voting process.

I am not making accusations against any individual councillor. However, in light of comments made by some councillors, I believe that there is a poor understanding of prejudice and discrimination by councillors and therefore the council has failed in its duty to uphold equal opportunities under the Equality Act 2010.

The complainant went on to request the following remedial action: Remedial Action Requested

• Ensure that all councillors are aware of both direct and indirect discrimination

• That the Town Council urgently review their Equal Opportunities policy

• Take active steps to work towards a better sex balance within the Council

Further Action If Action Is Not Taken

Although I have requested the above actions it may be that the council will find other ways of implementing corrective measures. If these measures are reasonable I will not take the complaint further. However, if the council refuses to act, I shall be making this complaint to higher authorities (the Monitoring Officer).

At the time that this complaint was received, the current Lowestoft Town Council Complaints Procedure had not been formally adopted. We were still working to the previous Procedure, which required initial assessment and acknowledgement by the Clerk or Mayor.

I issued an initial acknowledgement to the complainant on Monday 25 May, and formal acknowledgement from the Clerk followed on Tuesday 26 May. The Clerk and I agreed that due to the nature of the complaint, and because we wanted to ensure that the complaint was handled with complete openness, the matter should be considered by Full Council in public session (with due regard for confidentiality regarding the complainant’s identity and personal data).

Because the complaint had not been received in time to be included on the May Full Council meeting, the complaint was therefore scheduled for consideration at the following Full Council meeting on 23 June.

The official acknowledgement from the Clerk stated:

This is to formally acknowledge that your complaint has been received with due attention to its content. If you have concerns about whether any individual councillor has conducted themselves ethically in line with our Code of Conduct…that is a matter for complaint to the Monitoring Officer at the District Councillor…Please note that this would not cover any activities undertaken in a personal non-councillor capacity.

It sounds like you would appreciate a considered review of how we deal with ensuring we are treating people appropriately, equally and fairly. Next Full Council (23 June) will consider whether and how to take this forward. Council has an Equality and Diversity Policy…and can only control its corporate processes and offer training (but not compel attendance) and cannot see into the minds of councillors (who have different views on whether sexism was involved in their decision-making). However, while not wishing to preempt Council’s decision, I am sure reviewing what we do will be considered a good thing and that the 23 June will see the start of this process. Although this is a difficult time for everybody, this is an important issue for review.

I subsequently put together the following proposal for consideration by Full Council:

I would propose that a working group of a minimum of four members review the conduct of this Council in relation to the Equality and Diversity policy & the Suffolk Local Code of Conduct, and report back any recommendations to the Council. This is a very complex issue so perhaps two members from Standing orders and two from Personnel plus other members up to the number decided. As I previously intimated this issue is so complex I would also propose that outside professional and expert advice and assistance is sought from such bodies as the Equality and Human Rights Commission, SALC or NALC and ESC Monitoring Officer and I would go further and invite them to sit on the working group.

This was adopted by Full Council on 23 June 2020.

On 8 July 2020, the Standing Orders & Policies sub-Committee appointed its two representatives to the new working group (Cllrs Coleby & Hardie).

On 24 August 2020, the Personnel Committee appointed its two representatives to the new working group (Cllrs Eastwood & Taylor).

On 25 August 2020, Full Council considered the Terms of Reference for the new working group. The following Terms of Reference had been drafted ahead of this meeting.

The working group will focus on how the council, councillors and staff approach, understand, deliver and promote equality as well as discrimination, harassment and bullying. It will consider and review our Equality and Diversity policy in depth along with the Code of Conduct and identify any failings in its duty to uphold the Equality Act 2010 whether intentional or not. Finally, they will make recommendations on how the Council can be proactive on equality and ensure that not only do we meet our responsibilities but exceed them.

Councillor members of the new working group included both accuser and accused from the public allegations that followed the May 2020 AGM. Additional external representation on the new working group had already been recommended in the proposal agreed at June Full Council, so an amendment to the draft Terms of Reference was proposed at August Full Council:

…to state that membership includes representatives from three external bodies, and the Group should not meet without them.

The Terms of Reference (as amended) were agreed at August Full Council. At the same meeting, the Clerk reminded Councillors that the proceedings of the working group should not include “investigation”. The minutes additionally record that: “The complainant is not seeking investigation into what has happened previously, but is looking at how the Town Council is applying the law and what can be learnt, including any appropriate training, etc”.

Since then, it has proven more difficult than hoped to put the required external representation in place. The ESC Monitoring Officer has also noted that the working group plans to ‘identify any failings in its duty to uphold the Equality Act 2010 whether intentional or not’ and went on to advise that whilst the working group may wish to look at how the Town Council understands, delivers and promotes its duties under the Equality Act 2010, in a general corporate sense, it should not stray into looking at the behavior of individual councillors. The Monitoring Officer is responsible for reviewing and determining such matters, and the Town Council would be exceeding its authority if it strayed into any individuals code of conduct. In fact there is case law which confirms Town and Parish Councils should not use their own procedures to investigate such matters - R(Harvey) V Ledbury Town Council R EWHC 1151

Cllr Alan Green