

**APPEALS AND REVIEWS COMMITTEE
30TH NOVEMBER 2016**

PRESENT: Councillors Bentley, Bokor, Capleton, C. Harris

Councillor J. Midgley (Syston Town Council)
Councillor H. Midgley (Syston Town Council)

Councillor Pacey (Syston Town Council)
Mrs Voyce (Syston Town Manager)
Councillor Parsons (Chair of Member Conduct Panel)

Monitoring Officer
Democratic Services Officer (NC)

9. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS

Councillor Harris declared a personal interest in that she had worked at Loughborough College during the same time as Mrs Voyce, but stated that in her role there she had no dealings with Mrs Voyce.

10. DETERMINATION OF AN APPEAL FROM COUNCILLOR JANET MIDGLEY OF SYSTON TOWN COUNCIL AGAINST THE DECISIONS OF A PANEL OF THE MEMBER CONDUCT COMMITTEE (Ref: MC1a 16/17)

In accordance with the procedure for dealing with appeals, the Committee was being asked to consider an appeal from Councillor Janet Midgley of Syston Town Council against a decision of a Panel of the Member Conduct Committee on 7th October 2016 that she had breached the Code of Conduct of the Town Council in respect of several of her actions, and that as a consequence specified sanctions against her together with other suggestions to improve relationships and practices should be recommended to the Town Council.

The Chair explained the order of proceedings and all present (including witnesses) confirmed they understood the procedure. It was established that nobody present was aware of any interests or other reason which could prejudice the ability of the Committee to hold a fair hearing and make a sound determination on the matters in question.

The Committee agreed that certain elements of this hearing should be considered as exempt, namely the reference made about a previous Town Manager during the original hearing and requested that relevant parties indicate if they wished to introduce exempt matters, prior to doing so, to allow the Committee to move into exempt session.

Introductions were made and the witnesses were then asked to leave the room until they were called in as required during the meeting.

a) The reference to a previous Town Manager during the original hearing

RESOLVED that members of the public be excluded from the meeting during the consideration of matters relating to the exempt elements within the report on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972, but could be present during other items under discussion.

The Monitoring Officer summarised the material facts in relation to this matter.

Councillor Midgley presented her case regarding this matter and the Committee clarified that she felt that the statement had been made as an accusation and was untrue.

Mrs Voyce was called as a witness and clarified after questioning by Councillor Midgley and the Committee that she had made the statement in reference to the stresses of her job.

Councillor Parsons was called as a witness and confirmed after questioning by Councillor Midgley and the Committee that in his recollection of the original Panel's discussion the statement in question had played no part.

The Monitoring Officer drew the Committee's attention to the Investigator's response.

Councillor Midgley summed up her views on the matter.

RESOLVED that members of the public be re-admitted to the meeting during the consideration of the remaining elements within the report on the grounds that they do not involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Local Government Act 1972.

b) Weekend Litter Picker / Street Cleaner and Remembrance Day

The Monitoring Officer summarised the material facts in relation to this matter and noted that the issue of the employment of a litter picker / street cleaner raised within the appeal had been resolved during the pre-hearing process.

Councillor Midgley presented her case regarding this matter and stated that she had mentioned the hanging baskets but not litter when she had spoken to the Deputy Town Manager. The Committee clarified that she did not recall speaking to the Town Manager directly in relation to this matter.

Mrs Voyce was called as a witness and clarified after questioning by Councillor Midgley and the Committee that she had received a message from the Deputy Town Manager concerning the hanging baskets and then had phoned Councillor Midgley to discuss, and at this point the subject of litter had been brought up.

Councillor Parsons was called as a witness and confirmed after questioning by the Committee that although the original Panel had recognised there were conflicting

statements regarding this matter, they considered the instruction to have come from Councillor Midgley either directly or indirectly, and had determined that there had been a breach of the Code of Conduct as highlighted by the Investigator.

The Monitoring Officer drew the Committee's attention to the Investigator's response.

Councillor Midgley summed up her views on the matter.

c) Issues around the Grievance Policy

The Monitoring Officer summarised the material facts in relation to this matter.

Councillor Midgley presented her case regarding this matter and the Committee clarified that she had been unaware of the depth of issues between herself and the Town Manager which had resulted in the Code of Conduct complaint.

Councillor Pacey was called as a witness and confirmed after questioning by Councillor Midgley and the Committee that he understood the Grievance Policy was for staff grievances only. He stated that, in his view, there had been several attempts to mediate between the two parties. Councillor Midgley disputed this.

Mrs Voyce was called as a witness and clarified after questioning by Councillor Midgley and the Committee that a meeting had taken place to try and resolve issues between her and Councillor Midgley, and she had followed up this meeting with an email. She believed that the Code of Conduct complaint process was the correct way to resolve this situation and that the Grievance Policy was for staff grievances only.

The Monitoring Officer clarified that there was no requirement for complainants to raise concerns about a Councillor's conduct under other policies which may apply before making a Code of Conduct complaint.

d) Sanctions recommended by the original Panel

The Monitoring Officer summarised the material facts in relation to this matter.

Councillor Midgley presented her case regarding this matter and stated that she believed the sanctions would have a detrimental effect on the Town Council.

Councillor Parsons was called as a witness and confirmed after questioning by the Committee that in the Panel's view the sanctions were consistent in relation to other panels, and that in view of the longevity of the situation, the sanction to remove Councillor Midgley from her appointment as Chair of the Amenities Committee for 18 months was appropriate in comparison to other panel decisions.

The Monitoring Officer drew the Committee's attention to the Investigator's response and to the views of the Independent Person.

Councillor Midgley summed up her views on the matter.

The Committee and the Monitoring Officer withdrew to allow the Committee to consider the evidence in private.

Once all parties had returned to the room, the Chair of the Committee announced the Committee's decision.

RESOLVED

1. that the statement made by Mrs Voyce during the hearing referring to the previous Town Manager did not influence the Panel's decision in relation to Councillor Midgley's general conduct towards the Town Manager, and therefore this element of the appeal was not upheld;
2. that the Panel was sufficiently aware that Councillor Midgley did not speak directly to the Town Manager about the Remembrance Day arrangements rather than via another employee, and therefore this element of the appeal was not upheld;
3. that the Panel was sufficiently aware that the Town Manager had not invoked the Town Council's Grievance Policy before making a Code of Conduct complaint against Councillor Midgley, and therefore this element of the appeal was not upheld;
4. that the sanctions against Councillor Midgley recommended to Syston Town Council by the original Panel were not unduly harsh, and therefore this element of the appeal was not upheld.

Reasons

1. Whilst respecting Councillor Midgley's views, the Committee considered that there was no evidence that the statement had influenced the Panel, and the Chair of the Panel had confirmed it was not discussed during the decision making process.
2. The Committee considered that the Panel was sufficiently aware of the nature of the contact between the two parties concerning the Remembrance Day arrangements.
3. The Committee considered that the conflict between Councillor Midgley and Mrs Voyce was known prior to the Code of Conduct complaint being generated, attempts to reconcile the situation had been made, and that there was no requirement to invoke the Grievance Policy.
4. Taking into account their conclusions about the other matters raised within the appeal and the two breaches of the Code of Conduct by Councillor Midgley that were not included within the appeal, the Committee unanimously agreed that the sanctions were justified, and also supported the original Panel's other recommendations including engaging professional mediation services and assistance for the Town Council more generally.

The Monitoring Officer explained that as the appeal had not been upheld, the original Panel decisions would now be formally reported to Syston Town Council for their consideration, that there was no further right of appeal and the Committee's decision would be published in the form of these minutes.