

DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

GOVERNANCE COMMITTEE

MINUTES OF THE SPECIAL MEETING HELD ON MONDAY 13 NOVEMBER 2023

Councillors Present: Erik Pattenden (Chairman), Howard Woollaston (Vice-Chairman), Dominic Boeck, Jeremy Cottam, Owen Jeffery, David Marsh, Christopher Read, Louise Sturgess, Simon Carey, Bill Graham and David Southgate

Also Present: Sarah Clarke (Service Director (Strategy and Governance)), Stephen Chard (Democratic Services Manager) and Richard Lingard (Independent Investigator)

PART I

1 **Declarations of Interest**

There were no declarations of interest received. The Chairman noted that some of the Members of this Committee were present at the Executive meeting on 23 March 2023.

2 **NDC0823**

The Committee considered a report (Agenda Item 3) concerning a complaint regarding an alleged breach of the West Berkshire Council (WBC) Code of Conduct.

The Committee was required to determine whether a breach of the Code had occurred after considering the Investigator's report about a complaint received from the then Councillor Lynne Doherty (Complainant) in respect of Councillor Adrian Abbs (Subject Member) from West Berkshire Council submitted on 29 March 2023.

Should the Committee determine that a breach of the Code had occurred they would need to determine an appropriate sanction.

Presentation from Independent Investigator

The Independent Investigator, Mr Richard Lingard, presented his report and highlighted the following points:

- He clarified that this was the final version of his report. The reference to 'draft' was in error. The report would be amended prior to publication on the Council's website.
- There was no material dispute of the facts of the case. The proceedings took place in a public meeting and the meeting was livestreamed.
- Mrs Doherty had expressed the view that the behaviour of Councillor Abbs amounted to three breaches of the Council's Code of Conduct. Namely lack of respect, bullying and bringing the Council into disrepute. Mr Lingard did not consider any other aspect of the Code.
- He interviewed both Mrs Doherty and Councillor Abbs, and the findings from the interviews were contained within the report.
- Mr Lingard had further explored whether the contention of Councillor Abbs that he had no opportunity for debate was correct. He consulted Nicola Thomas, the Deputy Monitoring Officer, who advised him that Councillor Abbs would have been given the opportunity to ask a supplementary question of the then Councillor Steve Ardagh-Walter.

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- Mr Lingard agreed that Councillor Abbs had been disrespectful to Councillor Ardagh-Walter. He also formed the view that Councillor Doherty did not handle the situation as well as she might have done in the circumstances.
- Mr Lingard's draft report had been shared with Mrs Doherty and Councillor Abbs for comment prior to it being finalised. Mr Lingard took on board the feedback from Mrs Doherty and, on balance, agreed that Councillor Abbs had been disrespectful to her as well as Councillor Ardagh-Walter. Councillor Abbs had raised this change of position as a matter of concern and in response Mr Lingard advised that the sharing of the draft report allowed for amendments to be made if felt appropriate. He added that the reflection of this point did not change the outcome of his report.
- Mr Lingard did not find evidence of bullying by Councillor Abbs and did not agree that he had brought the Council into disrepute.

Questions of Mr Lingard

Mr Lingard made the following points in response to questions from Committee Members:

- In response to a question relating to the ability to enter into debate or ask questions, Mr Lingard made clear the point raised by Councillor Abbs that he felt unable to ask further questions or continue an exchange of views.
- Mr Lingard did consider and observe that tensions were building in the meeting prior to the incident.
- While reference was made in the Code of Conduct to bullying and intimidation, Mr Lingard clarified that the allegation was of bullying. He did not feel that the behaviour equated to bullying or intimidation.
- Mr Lingard did not feel there to be a significant difference between the need to demonstrate courtesy and respect. As stated he found that Councillor Abbs had been disrespectful.
- Mr Lingard confirmed that he did note a level of exchange between Councillors of different parties prior to the incident. However, he explained that he did not view the full recording of the meeting. His focus was primarily on the incident in question.
- It was clarified that there were seven Nolan Principles of Public Life. The West Berkshire Council Code of Conduct listed ten.

Mr Lingard made the following points in response to questions from Mrs Doherty:

- Mrs Doherty stated that her complaint referred to bullying and intimidation. She asked Mr Lingard for his view on whether intimidation had taken place. Mr Lingard explained that he could only form his views on what he was able to see and hear of the meeting. The microphones had been turned off at one stage and therefore he could not form a view on bullying or intimidation based on what was said at that point. He reiterated his finding of disrespect.
- Mrs Doherty queried if other witnesses had been questioned on what was said after the meeting had been adjourned. Mr Lingard explained that he did not do so. He needed to use his judgement on whether a breach had occurred.

Mr Lingard made the following points in response to questions from Councillor Abbs:

- Councillor Abbs returned to the point that the draft of the report did not find disrespect towards Mrs Doherty, only Councillor Ardagh-Walter. He queried if this change was made after Mr Lingard consulted Mrs Doherty. Mr Lingard confirmed this

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to be the case. He reiterated that comments were sought on the draft report and he felt it appropriate to modify his view based on comments from Mrs Doherty.

Complainant presentation:

Mrs Doherty made the following points:

- She had served as a West Berkshire Council Member for eight years and, as with all elected Members, had signed up to the Council's Constitution and its rules.
- She referred to the written response of Councillor Abbs in which he expressed objection to the Constitution as regards debate.
- Mrs Doherty highlighted the importance of respecting the Council's rules/its Constitution, the alternative could result in a breakdown in democracy. She pointed out that the Constitution had been worked on by a cross-party group of Members and the revised documentation recently approved by the Council.
- Mrs Doherty expressed the view that holding the position of an elected Councillor applied either during a formal meeting or after a meeting had closed.
- Mrs Doherty had chaired many meetings and in the high majority of cases respect for and listening to the Chairman were in place.
- It could be seen from the recording of the meeting that Councillor Steve Ardagh-Walter made attempts to respond to the questions raised but Councillor Abbs prevented him from doing so.
- At the Executive meeting, Mrs Doherty sought advice from the Legal representative and the Chief Executive as to how to proceed and her actions were based on that advice.
- Referring to the point of intimidation, Mrs Doherty stated that she felt very uncomfortable as she walked past Councillor Abbs when the Executive had been adjourned. The type of behaviour shown and the lack of respect were deterrents when seeking to attract more female councillors.
- Councillor Abbs had given the view that Mrs Doherty had taken a personal choice of actions. However, this was not the case, she followed the Council's rules and the advice of officers. Mrs Doherty advised that she always sought to enable debate, whilst at the same time keeping to the agenda and dealing with the business of a meeting in a timely manner.
- She felt there was a complete and utter lack of respect shown for Councillor Ardagh-Walter and herself. Mrs Doherty restated her view that she felt intimidated.

Questions of Mrs Doherty

Mrs Doherty made the following points in response to questions from Committee Members:

- Reference was made to Mrs Doherty's written comments to the Investigator that this was not an isolated incident and was asked for further detail on that point. Mrs Doherty considered that Councillor Abbs had struggled to follow debating rules on many occasions. She felt there were many examples of Councillor Abbs interrupting and talking over others, and not listening to the chairperson of the meeting. She did make use of the gavel at an early stage in an effort to stop the situation from escalating. This was partly based on her previous experience.
- The following question related to whether there had been a build up of tensions at meetings, particularly during the period of time leading up to the elections in May 2023. Mrs Doherty agreed this had been a tense period of time and debates had, at

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times, become heated. However, she added that despite this, others had remained respectful.

- In reflecting on her own conduct, Mrs Doherty stated that she had sought officer advice on the actions she could take to manage a meeting and this included the use of the gavel in the first instance followed by standing up if necessary. She had also sought the advice of experienced chairmen on such matters. The officer advice at the meeting was to adjourn and ask Councillor Abbs to leave.

Subject Member Presentation:

Councillor Abbs made the following points:

- He acknowledged that an interruption had occurred. However, this was not unusual at Executive meetings during the period 2019 – 2023. Councillor Abbs stated that he was not the only offender.
- The handling of the Executive meeting was not usual. This was how the Executive was run by the previous Administration. Mrs Doherty was very quick to use the gavel and not for the first time. He did not believe that the correct process had been followed. He accepted that Mrs Doherty sought and received advice from officers, but did not follow the Constitution's rules in asking him to leave.
- It was extremely difficult to hold a full knowledge of the Constitution.
- Reflecting on the 2019-2023 period, Councillor Abbs felt it was difficult to identify when debate was allowed at the Executive. Formal written questions could be submitted and supplementary questions could be asked, but from his experience it was generally not possible to ask supplementary questions outside of this. This had changed for the better since May 2023 with the new Administration.
- Councillor Abbs acknowledged that the period running up to the elections was a stressful time that included the setting of the Budget.
- Councillor Abbs did not accept that he had acted in an intimidating manner. He had not stood up to address Mrs Doherty, he had only turned towards her as she left the Chamber after the meeting had been adjourned and he had been asked to leave.
- He questioned the need for this process, and the time and money that had been spent on it. Councillor Abbs felt it was being used to try and discredit him.

Questions of Councillor Abbs

Councillor Abbs made the following points in response to questions from Committee Members:

- Councillor Abbs could recall many occasions when there had been a heated exchange between Members. He therefore restated his view that the nature of the Executive meeting held in March 2023 was not unusual.
- Councillor Abbs also reiterated that there was not the opportunity for debate at meetings of the Executive.
- Councillor Abbs was disappointed that the points he made during the 2019-2023 period were often considered to be politically motivated by the Administration. He had chosen to become an independent Councillor as he wanted to move away from having politics within processes. He felt that the Constitution could be improved.
- It was for the Chairman of a meeting to set the tone of a meeting and allow for an open, fair and inclusive process. The absence of this would likely result in difficulties.

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- With hindsight, Councillor Abbs stated that he should have remained in the Chamber until the proper process had been followed and the reference to the Constitution made clear. The matter of him being removed from the meeting should have been put to a vote.

Councillor Abbs made some concluding comments. There had been a build up of tension, in particular the period from December 2022 until May 2023. The tone set at Executive meetings was a source of frustration.

The point had been made about the management of lengthy agendas which constricted debate. Councillor Abbs voiced a preference for more time to allow proper debate to help inform sound decision making, rather than being restricted to question and answer sessions.

(The meeting was adjourned at 6.55pm to consider if a breach had occurred. The meeting reconvened at 7.40pm.)

Councillor Erik Pattenden confirmed that after careful consideration of both the written evidence submitted and the oral evidence given at the hearing, the Committee found that, in respect of the complaint made by Mrs Lynne Doherty (formerly Councillor Doherty of West Berkshire Council) on 29 March 2023, Councillor Adrian Abbs had breached WBC's Code of Conduct.

In reaching that decision, the Committee resolved that they concurred with the Investigator's finding that Councillor Abbs breached paragraph 4.1(a) of the Council's Code of Conduct:

'Councillors and Co-Opted Members must treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.'

Reason: The Committee unanimously agreed with the finding of the Investigator that Councillor Abbs had failed to show courtesy and respect to Councillor Steve Ardagh-Walter and Mrs Doherty by interrupting and talking over them.

The majority of the Committee concurred with the Investigator's finding that Councillor Abbs did not breach paragraphs 4.2(a) or 4.2(f) of the Council's Code of Conduct:

4.2(a) 'Councillors and Co-opted Members must not engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.'

4.2(f) 'Councillors and Co-opted Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.'

Sarah Clarke then outlined the possible sanctions that could be applied as a breach of the Code of Conduct had been found. She explained that the Governance Committee's Advisory Panel recommended that a formal letter be sent from the Chairman of the Governance Committee to Councillor Abbs indicating the failure to comply with the Code. This was however a matter for this Committee to determine.

Councillor Abbs was then asked for any comments on the sanctions that could be applied or other statements by way of mitigation.

In response, Councillor Abbs stated his disappointment at this outcome. He repeated his view that the tone of the Executive meeting (set by the previous Administration) was not unlike other meetings.

(The meeting was adjourned at 7.48pm to consider the sanctions to be applied. The meeting reconvened at 8.00pm.)

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Councillor Pattenden confirmed that he would send a formal letter to Councillor Abbs, as Chairman of the Governance Committee, indicating the failure of Councillor Abbs to comply with Paragraph 4.1(a) of the West Berkshire Council Code of Conduct.

(The meeting commenced at 6.00pm and closed at 8.02pm)

CHAIRMAN

Date of Signature