



ASSESSMENT DECISION NOTICE

A BREACH OF THE CODE HAS BEEN FOUND

NO SANCTION

Reference: CCN045/13

Complainants: Mr Richard Goddern
Mrs Catherine Marks

Subject Member: Councillor Emma Hambly, St Kew Parish Council

Person conducting the Assessment: Simon Mansell – Principal Legal Officer, Corporate Governance

Date of Assessment: 14 January 2014

Complaint

On 14 January 2014 the Monitoring Officer considered complaints from Mr Richard Goddern and Mrs Catherine Marks concerning the alleged conduct of Councillor Emma Hambly of St Kew Parish Council. A general summary of the complaint is set out below.

The Complainants have alleged that at a meeting of St Kew Parish Council, on 10 December 2013, the Subject Member covertly recorded a meeting of the Parish Council by passing a member of the public a recording device that was then used throughout the meeting and returned to the Subject Member at the end of the meeting. The Complainants considers that this action is in breach of the Parish Councils Standing Orders.

Potential breaches of the Code of Conduct are:-

A failure to treat others with respect

Decision and breaches of the Code Found

For the reasons set out below, the decision of this matter at assessment, is that there has been a breach of the Code of Conduct for St Kew Parish Council and, more particularly there has been a failure to treat others with respect.

In light of the fact the Subject Member has agreed to apologise, no further action is proposed in relation to this matter.

Reasons

Sufficient information has been obtained to enable this complaint to be assessed and determined without the need to refer the complaint for investigation and the undertaking of interviews.

In assessing this complaint I have had regard to;

- the complaint as submitted by the Complainants;
- the response to the complaint submitted by the Subject Member;
- the views of the Independent Person assigned to this matter.

The Complainants have stated that at the meeting of St Kew Parish Council on 10 December 2013 the Subject Member overtly recorded the meeting of the Parish Council by passing a member of the public a recording device. The member of the public placed the recording device on the chair next to them. The Subject Member then collected the recording device at the end of the Parish Council meeting.

The Standing Orders for St Kew Parish Council state, at Standing Order 71;

'There shall be no audio or video or photographs of the meeting without express approval of the council.'

In responding to the complaint the Subject Member has stated that she wished to record the meeting as it would be an authoritative record of the meeting and that, following comments made concerning the Local Audit and Accountability Bill, the Subject Member was under the impression that it was legally acceptable to record meetings.

Further to this the Subject Member has stated that she was not aware of the Standing Order which prevented the recording of the meeting without the permission of the Council and that, while she has stated that she did pass a recording device to a member of the public, she takes full responsibility for this.

The Standing Orders for Kew Parish Council are clear and, while I have noted that the Subject Member was not aware of Standing Order 71, it is considered that it is the responsibility of all Parish Councillors to make themselves aware of the orders that govern them as they relate to their own Council.

However, despite this concern the recording did take place and by failing to follow Standing Orders the Subject Member has failed to treat others with respect by not having regard to the Council's Standing Orders and as a result, has breached the Code of Conduct for Kew Parish Council.

In considering an appropriate remedy for this breach I have taken into account that the Subject Member had a real belief that she was able to recording the meeting and that it would appear several members of the Council saw the recording the device but did not raise this with the Subject Member before the meeting.

As a result of this the assessing officer has approached the Subject Member and has asked if she would be willing to apologise for her actions; as it is not possible that the Subject Member can be directed to apologise.

Following this approach, the Subject Member has agreed to apologise to the next available meeting of the Council for her actions on recording the meeting and breaching the Standing Orders for St Kew Parish Council.

As a result of the willingness to apologise for her actions it is considered that this is a way of resolving this matter and therefore while a breach of the Code has been found no further action will be taken with regards to this matter.

What happens now?

This decision notice is sent to the complainant, the member against whom the allegation has been made and the Clerk to St Kew Parish Council.

Right of review

At the written request of the subject member, the Monitoring Officer can review and is able to change a decision not to refer an allegation for investigation or other action. A different Officer to that involved in the original decision will undertake the review.

We must receive a written request from the subject member to review this decision within 15 working days from the date of this notice, explaining in detail on what grounds the decision should be reviewed.

If we receive a request for a review, we will write to all the parties mentioned above, notifying them of the request to review the decision.

It should be noted reviews will not be conducted by the same person who did the initial assessment.

Additional help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Disability Discrimination Act 2000.

We can also help if English is not your first language.



SJR Mansell MBE
Principal Legal Officer
On behalf of the Monitoring Officer
Date: 16 January 2014