

Minutes of a meeting of the
Joint Governance Sub-Committee
4 November 2019
at 6.30 pm

Councillor Bob Smytherman (Chairman)

Worthing Borough Council:
Councillor Louise Murphy
Councillor Steve Wills

Adur District Council:
Councillor Brian Coomber
Councillor Andy McGregor
Councillor Debs Stainforth

Simon Norris-Jones, Independent Person, attended the meeting as the co-opted member of the Sub-Committee.

JGSC/6/19-20 Election of a Chairman

Resolved,

That the Joint Governance Sub-Committee appointed Councillor Bob Smytherman to be Chairman for the meeting.

Before proceeding with the meeting, the Chairman advised that Councillor Debs Stainforth had been delayed and suggested to the Committee Members that the meeting be adjourned to allow the Councillor to fully participate or proceed in her absence. The Committee agreed to adjourn the meeting.

JGSC/7/19-20 Declarations of Interest

There were no declarations of interest.

JGSC/8/19-20 Procedure for the Meeting

The Committee were asked to approve the procedure for the meeting, a copy of which is attached to the signed copy of the minutes as item 3.

Resolved,

The Committee agreed the procedure for the meeting and confirmed that the hearing would be held in public.

JGSC/9/19-20 Allegation of a Breach of the Code of Conduct by Cllr Catherine Arnold

The Monitoring Officer (MO) introduced attendees to one another and outlined the Council's case for Members' consideration. The MO advised there was little to add to the report, which she believed had been clear and thorough.

A formal complaint had been received by the Council's MO on 3 April 2019 from Councillor Stephen Chipp, the Complainant. The complaint had been that Councillor Catherine Arnold, the Subject Member, had breached the Adur District Council Code of Conduct for Members in respect of paragraph 4.2.1 (d) which dealt with disclosure of confidential information.

The MO advised the background to the complaint related to the Joint Overview and Scrutiny Working Group (JOSWG) that had been established to consider some work on traveller encampments. The JOSWG had met on the 27 February 2019 to question a number of senior Officers within the Councils and gain evidence from third parties. Some of the information provided to the JOSWG had been confidential in its nature. There had been reference made on the evening to those present that the information was strictly confidential and subject to legal professional privilege.

Following the JOSWG meeting in February, an email had been sent by Mark Lowe, the Council's Scrutiny and Risk Officer, to members of the JOSWG on 21 March 2019. The email had two attachments, and the Officer had stipulated within the email that the attachments contained confidential information and should not be shared. Despite this, the MO advised it had come to light that Councillor Arnold had shared the email and both attachments with a person who was not a Councillor or Officer of either the Adur or Worthing authorities, and therefore deemed to be a member of the public.

The Council's Scrutiny and Risk Officer (SRO), Mark Lowe, noticed that Councillor Arnold had shared the attachments that were Google documents, with a person with an external email address, despite advice not to do so. The MO advised that anyone attempting to forward the attachments to an email address that did not have permission to access the documents would have received pop up prompts. Therefore, it would have been clear to Councillor Arnold that she was sharing both the email and attachments contrary to Officer advice.

The Council's SRO had emailed Councillor Arnold about the issue on 26 March 2019 and Councillor Arnold's initial response had been "... I was trying to share the content of the email, and not the file itself, sorry". The MO referred Members to the subsequent email from the Chief Executive to Councillor Arnold and her response which confirmed that she had only intended to share the email.

However the MO referred Members to the Investigator's report and confirmed that at interview Cllr Arnold had admitted that she had actually wanted to share one of the attachments but inadvertently shared both attachments, contrary to Officer advice.

Councillor Arnold had accepted she had shared confidential information, which the MO stated was a breach of the Council's Code of Conduct and referred Members to the Investigator's report and its conclusion that the act had been deliberate and that none of the exceptions in the Code of Conduct applied.

The MO advised the Chairman there were two witnesses in attendance who were available to answer any questions, however, bearing in mind the evidence and Councillor Arnold's admission to the Investigator, the Committee may not feel it would be necessary. The MO invited the Committee to consider asking Cllr Arnold whether she admitted the breach, in which case they may consider further evidence relating to breach to be unnecessary.

Councillor Arnold then addressed the Committee and advised she was aware she had breached the Code and initially out of panic had stated she was just forwarding the email. Councillor Arnold was aware of the seriousness of the act.

The MO reiterated that in light of Councillor Arnold's helpful comments and admission of a breach the Committee may not feel it necessary to consider further evidence and representations and may feel able to move straight to determination.

A query was raised by a Member regarding the use, access and security settings of Google documents, which the MO and SRO answered to the best of their experience and ability.

The Chairman advised, and it was agreed, that given there was an admittance of the breach of Code to the Committee by the Subject Member they would move to procedure 14 - the Independent Person's views and comments following a short adjournment.

The Legal Advisor to the Sub-Committee (AM), with the assistance of the MO, clarified for the Members of the Committee how the meeting would run following the adjournment, and it was further agreed that as the witnesses had no further comments to make they could be dismissed from the meeting.

Councillor Stephen Chipp and Mark Lowe, the SRO, left the meeting at 7.25pm.

The meeting was adjourned at 7.25pm, and reconvened at 7.38pm.

In summary, the Independent Person's ((Simon Norris-Jones) impartial views were given to the Committee:-

1. An excellent Investigator's report, considering all aspects of the case;
2. agreed confidential information disclosed by Councillor Arnold not in doubt and therefore a clear breach of the Code of Conduct;
3. any disclosure of confidential information, whether deliberate or accidental, was a serious matter due to the potential consequences of such disclosure; and
4. people in the public eye had a responsibility to exercise particular diligence in spite of their busy lives to ensure confidential information was not disclosed.

All Committee Members agreed the Subject Member, Councillor Catherine Arnold, had breached the Code of Conduct for Members in respect of paragraph 4.2.1 (d).

AM referred Members to the possible sanctions that could be imposed which were set out on page 6, 4.5 of the MO's report. The MO confirmed any sanctions imposed should be reasonable and proportionate and directly related to the breach.

The MO made representations relating to appropriate sanctions to the Sub-Committee. The MO felt it was a significant and deliberate breach of the Code of Conduct to disclose confidential information, whether deliberate or not. It was felt the breach could have caused potentially significant reputational damage to the Council and that Members should bear in mind the effectiveness of the Joint Overview and Scrutiny Committee (JOSC)/Working Group was built on trust, and any breach could damage any good, working relationships with third parties. The MO recommended to Members a letter of apology be written, within 14 days, to the Joint Chairmen of the JOSC and that the Sub-Committee may wish to consider censure.

Members raised questions with the MO regarding potential sanctions to be imposed which were answered in turn to the Members' satisfaction.

The Subject Member and/or her representative then had the opportunity to address the Sub-Committee on mitigation and sanctions.

Councillor Les Alden, as Councillor Arnold's representative, stated that Councillor Arnold was a hard-working and committed Member of JOSCS and Working Groups. He believed it would not be beneficial to the Council to have her removed from any Committees or Working Groups. The Councillor stated Councillor Arnold had admitted she made an error of judgment and now thinks more carefully when handling Councillor information. Councillor Arnold was willing to write a letter of apology for her actions and willingly attend any training deemed necessary.

Councillor Arnold did not deny that there was a breach, for which she apologised however, felt it was not a deliberate mistake. In her opinion the breach would then have been mischievous and malicious. The Councillor advised she was very professional, owned a marketing business and had never made mistakes like this in the past. She advised it wasn't an excuse but she had recently lost a close member of the family a week before, and she felt that was why she made the mistake. The Councillor said she enjoyed her Council work very much and was very nervous of being removed from the Working Group. She apologised again and was aware of the impact the breach had on her reputation, her Group's reputation and the Councils. The Councillor concluded her representations by referring the Sub-Committee to Page 47 5.9 of the Investigator's report.

Some Members of the Sub-Committee raised points of clarity with Councillor Arnold which were answered to their satisfaction.

The views of the Independent Person were sought and given to the Members of the Sub-Committee.

The Sub-Committee then retired into private session, with the Legal Advisor, to reach a decision about appropriate sanctions to be imposed.

The meeting was adjourned at 8.08pm, and reconvened at 8.55pm.

The Chairman advised the Sub-Committee had reached a decision and were grateful to Councillor Arnold for admitting there was a breach of the Code of Conduct.

Resolved,

The Joint Governance Sub-Committee agreed the following sanctions:-

1. Issue a public censure, wording to be agreed with the Chairman, and placed on the Councils' website for one month.
2. Councillor Catherine Arnold to write a letter of apology to the Joint Chairs of the Joint Overview & Scrutiny Committee within 14 days.

3. Councillor Catherine Arnold and all Members be invited to attend a related training course covering all aspects of Google securities as identified by the Investigating Officer in his report.
4. Request the Director for Digital & Resources, Paul Brewer, and his team look at all aspects related to classified information, security documents, their usage and sharing thereof.

The meeting ended at 8.58 pm