

**Minutes of the Standards Sub-Committee
Monday 20th June, 2022 at 10.00am
in Committee Room 3, the Council House, Dudley**

Present:

Councillor A Lees (Chair)
Councillor D Borley (Vice-Chair)
Councillor J Cowell

Officers:

M Farooq (Monitoring Officer), and S Griffiths (Democratic Services Manager)

Also in Attendance:

Councillor P Harley
Mr J Jardine (Complainant)
Councillors S Clark and J Foster (Observers)
One Member of the Press

Also in attendance on MS Teams

D Stiltz QC (Investigator)
Revd. A Hadley (Independent Person)
K O'Keefe (Chief Executive)
L Jury (Democratic Services Officer)

1. **Declarations of Interest**

No member made a declaration of interest in accordance with the Member's Code of Conduct.

2. **Minutes**

Resolved

That the minutes of the meeting of the Sub-Committee held on 28th January, 2022, be approved as a correct record and signed.

3. **Standards Investigation**

Following introductions, the Chair referred to the procedure to be followed at the meeting, copies of which had been circulated prior to the meeting.

The Sub-Committee considered whether the meeting should be held in public or private session under the provisions of the Local Government Act 1972. The Sub-Committee agreed that the meeting should be conducted in public.

The Chair confirmed that Councillor P Harley had been given the opportunity to be represented or accompanied during the meeting by a person of his choice. It was confirmed that Councillor P Harley had decided not to be represented but Councillor S Clark had accompanied Councillor P Harley to the meeting, as an observer, and may be referred to during the meeting by Councillor P Harley.

The Sub-Committee considered the outcome of a Standards Investigation undertaken in respect of Councillor P Harley in accordance with the Members' Code of Conduct and the local standards arrangements set out in the Council's Constitution.

The Sub-Committee considered the Standards Investigation in accordance with the procedure as follows:

The Monitoring Officer presented his report to the Sub-Committee and referred to the information set out in the Appendices and confirmed that the complainant (Mr J Jardine) was in attendance at the meeting.



The Monitoring Officer confirmed that having considered the complaint, a discussion had been held with the Independent Person appointed under the Localism Act 2011. Following the consultation, it had been agreed that the complaint merited formal independent investigation. An Independent Investigator had been instructed to investigate the complaint and Councillor P Harley had been informed that an investigation would be undertaken.

As a result of consultation that had been held independently with all parties and the Investigator, a final draft report was produced and presented to the Monitoring Officer by the Investigator.

In referring to the Investigator's report, the Monitoring Officer confirmed that the Investigator had concluded that there had been evidence to show that Councillor P Harley's remarks to the press about Chief Superintendent Madill's actions were disrespectful, unwarranted, and inappropriate and gave rise to a potential breach of the provisions of the Members' Code of Conduct. As a requirement of the procedure, a copy of the final report had been sent to Councillor P Harley and the complainant by the Monitoring Officer.

Further consultation had been undertaken with the Independent Person and it was considered that, as the report found a potential breach of the Members' Code of Conduct, this would merit a referral for a hearing by the Standards Sub-Committee.

In concluding, the Monitoring Officer outlined the action that the Sub-Committee might take if they determined that there had been a breach of the Code of Conduct. The Sub-Committee was advised that any action must be proportionate taking account of the facts and circumstances of the case.

The Investigator presented his report in detail, making specific reference to the alleged complaint, Councillor P Harley's letter to The West Midlands Police Crime Commissioner and Councillor P Harleys' response to the complaint.



The Investigator confirmed that he had found that Councillor Harley's remarks to the press about Chief Superintendent Madill's actions, gave rise to a breach of the principles of the Member's Code of Conduct, specifically:

- "Always treating people with respect, including the organisations and public engaged with and those worked alongside, and not bullying any person.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within the Council."

In conclusion, the Investigator stated that, in his assessment, although Councillor P Harley's remarks had been disrespectful, unwarranted, and inappropriate, he did not consider that they were sufficiently extreme or concerted to amount to bullying.

The Chair invited the Complainant to make any supplemental statements with regard to the Investigator's Report and the response from Councillor P Harley. In his statement, the Complainant made reference to a factual point in the report relating to the comments made to the media, confirming that the comments had been made to the media before the letter from Councillor P Harley to Simon Foster, West Midlands Police and Crime Commissioner, had been received.

The Chair invited questions to the Monitoring Officer and Investigator from Councillor P Harley, the Independent Person and Members of the Sub-Committee.

The Chair then invited Councillor P Harley to give his evidence and call any representatives to make representations to the Sub-Committee.

During the presentation by Councillor P Harley, the Council's Chief Executive joined the meeting as a witness and responded to questions. In presenting his evidence, Councillor P Harley also tabled a letter that had been received from the Cabinet Member for Housing and Communities. All parties were presented with a copy of the letter.



The Chair invited questions to Councillor P Harley from the Monitoring Officer, the Investigator, the Independent Person and Members of the Sub-Committee.

The Complainant requested that the letter received from Councillor D Corfield in respect of a letter from Mr Parfait, with regard to an Independent Office for Police Conduct (IOPC) complaint, that Councillor P Harley had referred to in his evidence, not be considered by the Sub-Committee as West Midlands Police had confirmed that no complaint had been received. A copy of the letter was presented to the Sub-Committee. The Chair confirmed that advice with regard to this matter would be sought from the Monitoring Officer when considering the findings of facts.

The Chair invited Councillor P Harley to state if he disagreed with any relevant facts in the Investigator's Report. It was noted that although Councillor P Harley had not disagreed with the findings of facts in the report and accepted that the comments to the media had been made, he did not believe that in this instance, he had breached the Member's Code of Conduct for the reasons as stated in his evidence.

The Sub-Committee adjourned to consider the findings of fact in private.

The meeting reconvened and the Chair reported that, having considered the evidence presented, the Sub-Committee had made the following findings of fact:

- (1) Councillor P Harley is an Elected Member of Dudley MBC.
- (2) He signed the declaration of acceptance of office as a Councillor on 4th May 2018; this included an undertaking to comply with the Members' Code of Conduct in the performance of his functions as a Councillor.
- (3) That the Members' Code of Conduct applied to Councillor P Harley as he was acting in his capacity as a Councillor and also as the Leader of the Council in these circumstances.



- (4) That in November, 2021, Councillor P Harley made various comments to the press concerning Chief Superintendent Kim Madill, as set out in the investigation report by the Investigator, Daniel Stiltz QC, dated 19th May, 2022.
- (5) That Councillor P Harley also sent a related letter to the West Midlands Police and Crime Commissioner on 22nd November, 2021.

The Chair stated that the Sub-Committee would consider whether, based on the facts it had found, that Councillor P Harley had failed to follow the Members' Code of Conduct and invited Councillor P Harley to give relevant reasons why the Sub-Committee should decide that he had not failed to follow the Code.

Following Councillor P Harley's comments, the Chair invited representations from Members of the Sub-Committee, the Investigator, and the Independent Person.

The Independent Person confirmed that, in his opinion and to the best of his knowledge, the standards procedures had been followed in relation to the complaint that had been received.

The Chair invited Councillor P Harley to make any final relevant points to which Councillor P Harley confirmed he had nothing further to add.

The Sub-Committee adjourned to consider, in private, the representations and evidence presented as to whether Councillor P Harley had failed to comply with the Member's Code of Conduct.

The meeting reconvened and the Chair announced that having taken account of all the evidence, information, written and verbal submissions that had been presented to the meeting, the Standards Sub-Committee considered the two behaviours alleged to have been breached by Councillor P Harley in the Members' Code of Conduct and decided:

- (1) That there had not been a breach of providing leadership.
- (2) That there had been a breach of the Members' Code of Conduct by not treating Chief Superintendent K Madill with respect insofar as the remarks Councillor P Harley made to the press in November, 2021.



In making its decision, the Sub-Committee had also taken full account of Councillor P Harley's view that, as Leader of the Council, he had been championing the needs of the residents, indeed the whole community, and putting their interests first. The issue had related to very serious concerns for the local community as a result of which there had been a need to adhere to the traveller related protocol between the local authority and West Midlands Police.

The Chair reported that, as the Sub-Committee had decided that Councillor P Harley had failed to follow the Members' Code of Conduct, it would now consider any verbal or written representations from the Investigator as to whether the Sub-Committee should take any action and what form that action should take.

Following comments from the Investigator, the Chair announced that the Sub-Committee would adjourn to consider whether to take any action in respect of Councillor P Harley.

The meeting reconvened and the Chair announced that having taken account of all the evidence, information, written and verbal submissions that had been presented to the meeting, the Standards Sub-Committee:

Resolved

- (1) That a formal letter be sent to Councillor P Harley from the Chair of the Audit and Standards Committee.
- (2) The Sub-Committee noted that Councillor P Harley had recently attended training on the new Member's Code of Conduct and standards arrangements held on 18th May, 2022.

The meeting ended at 2:45pm

CHAIR