

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

TUESDAY, 19TH JULY 2011 AT 10.00 A.M.

PRESENT: Independent Members: Mr. N. A. Burke (Chairman) and Mrs. G. Bell

District Councillors: Mrs. S. J. Baxter, L. C. R. Mallett and Mrs. M. A. Sherrey JP

Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts

Subject Members: District Councillors Mrs. C. M. McDonald, P. M. McDonald, E. J. Murray, S. P. Shannon and C. J. K. Wilson

Subject Members' Representative: Ms. F. Randle

Investigating Officer: Mr. J. Goolden

Legal Advisor to the Committee: Ms. B. Evans

Officers: Ms. D. Parker-Jones and Mr. A. Stephens

Observers: Ms. L. Miskelly (accompanying Ms. B. Evans) and District Councillors C. J. Bloore and C. R. Scurrall

18/11 **CHAIRMAN'S OPENING REMARKS**

The Chairman welcomed all present and explained that there would be two hearings taking place. The first hearing would deal with the complaints relating to the conduct of an individual Member at the meeting of Full Council on 29th July 2009, followed by a second hearing for the complaints arising from the conduct of certain Members at the Full Council meeting on 20th January 2010.

19/11 **APOLOGIES FOR ABSENCE**

An apology for absence was received from Ms. K. J. Sharpe (Vice-Chairman, Independent Member).

District Councillor S. R. Colella who formed part of the normal membership of the Committee was affected by some of the issues under consideration and therefore did not participate in the proceedings.

20/11 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

21/11 **EXCLUSION OF THE PUBLIC - 2009 COMPLAINTS**

The Committee considered whether or not to exclude the public from the meeting for the consideration of the first part of Agenda Item No. 4; the final determination of the complaints relating to the meeting of Full Council held on 29th July 2009. In doing so, the Committee considered whether the public interest in maintaining the exemption outweighed the public interest in disclosing the information, which the Committee agreed it did not.

RESOLVED that the public not be excluded from the meeting for the final determination of the complaints relating to the meeting of Full Council held on 29th July 2009 and that the relevant reports be placed in the public domain.

22/11 **FINAL DETERMINATION OF COMPLAINTS RELATING TO THE MEETING OF FULL COUNCIL HELD ON 29TH JULY 2009**

Further to Minute No. 26/10 of the meeting of the Standards Committee held on 17th December 2010, the Committee considered a report of the Investigating Officer on alleged failures by District Councillor Mrs. Christine McDonald to follow the Bromsgrove District Council Code of Conduct.

The complaints concerned Councillor Mrs. McDonald's conduct at the Full Council meeting on 29th July 2009. At the meeting there was a problem regarding the seating arrangements. The Chairman of the meeting made a number of rulings which concluded in the resolution that the Labour Group Members be excluded from the meeting. There followed a number of adjournments of the meeting and attendance by the police at the request of the Council. During the final part of the meeting Councillor Mrs. McDonald occupied the seat next to the Leader of the Council, Councillor Hollingworth. Councillor Mrs McDonald interrupted him and switched his microphone off whilst he was presenting the recommendations to the Council on an item under consideration.

The allegations were that Councillor Mrs. McDonald had breached paragraph 3(1) of the Code in that she failed to treat others with respect, and that Councillor Mrs. McDonald breached paragraph 5 of the Code in that she had conducted herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute.

A report of the Investigating Officer dated 10th January 2011 (revised report for the hearing), which had found that Councillor Mrs. McDonald had failed to follow the Code of Conduct in relation to the complaints, was considered. The Committee was asked to determine whether, based on the agreed Statement of Facts, The Investigating Officer's report and supporting documents and the representations made at the hearing, Councillor Mrs. McDonald had breached the Code of Conduct and if so what sanction, if any, should be imposed.

An update report of the Monitoring Officer detailing changes designed to improve the constitution and procedures relating to Council meetings agreed at Full Council on 22nd June 2011 and recent cross-party discussions that had taken place into improving the public perception of the decision making process at the Council was circulated.

A written apology volunteered by Councillor Mrs. McDonald apologising unreservedly for her behaviour on the evening in question was also presented to the Committee at the outset of the proceedings.

RESOLVED:

- (a) that Councillor Mrs. McDonald had failed to follow the Code of Conduct by being in breach of Part 1 paragraph 3 (1) in that she failed to treat others with respect, and paragraph 5 in that she had conducted herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute; and
- (b) that in light of the apology offered voluntarily by Councillor Mrs. McDonald and in light of the positive developments at the Council since the date of the events in question, the Standards Committee accepted the apology offered (subject to it being resubmitted to the Committee in formal letter format) and imposed a sanction on Councillor Mrs. McDonald of undertaking training regarding the appropriate standards of conduct for elected Members.

(A copy of the Committee's full decision, together with the reasons for it, and the subsequent formal apology submitted by Councillor Mrs. McDonald dated 28th July 2011 is appended.)

23/11 **EXCLUSION OF THE PUBLIC - 2010 COMPLAINTS**

The Committee considered whether or not to exclude the public from the meeting for the consideration of the second part of Agenda Item No. 4; the final determination of the complaints relating to the meeting of Full Council held on 20th January 2010. In doing so, the Committee considered whether the public interest in maintaining the exemption outweighed the public interest in disclosing the information, which the Committee agreed it did not.

RESOLVED that the public not be excluded from the meeting for the final determination of the complaints relating to the meeting of Full Council held on 20th January 2010 and that the relevant reports be placed in the public domain.

24/11 **FINAL DETERMINATION OF COMPLAINTS RELATING TO THE MEETING OF FULL COUNCIL HELD ON 20TH JANUARY 2010**

Further to Minute No. 26/10 of the meeting of the Standards Committee held on 17th December 2010, the Committee considered reports of the Investigating Officer on alleged failures by Former District Councillor Ms. Judy Marshall and District Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson to follow the Bromsgrove District Council Code of Conduct.

The complaints concerned the Full Council meeting on 20th January 2010. The six Subject Councillors attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving the six Subject Councillors' conduct.

The allegations were that the Subject Members had breached paragraph 9(1) of the Code in they failed to declare a personal and prejudicial interest, and had breached paragraph 12(1) of the Code in that they had failed to withdraw from the debate in question.

Individual Subject Member reports of the Investigating Officer dated 10th January 2011 (revised reports for the hearing), which had found that all of the Subject Members had failed to follow the Code of Conduct in relation to the complaints, were considered. The Committee was asked to determine whether, based on the agreed Statement of Facts, the Investigating Officer's report and supporting documents and representations made at the hearing, the six Subject Councillors had breached the Code of Conduct and if so what sanction, if any, should be imposed.

An update report from the Monitoring Officer detailing changes designed to improve the constitution and procedures relating to Council meetings agreed at Full Council on 22nd June 2011 and recent cross-party discussions that had taken place into improving the public perception of the decision making process at the Council was circulated.

RESOLVED:

- (a) that Former District Councillor Ms. Judy Marshall and District Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson had failed to follow the Code of Conduct by being in breach of Part 2 paragraph 9 (1) in that they had failed to declare a personal and prejudicial interest, and paragraph 12 (1) in that they had failed to withdraw from the debate in question; and
- (b) that in light of the nature of the breach of the Code no sanction be imposed.
- (c) The Committee also acknowledged that the only sanction which would have been available as regards Former Councillor Ms. J. A. Marshall would have been censure because former Councillor Ms. J. A. Marshall was no longer a member of the Council at the time of the hearing.

(Copies of the Committee's full decisions, together with the reasons for the decisions, are appended.)

The meeting closed at 3.20 p.m.

Chairman

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 29th July 2009

Member subject to allegations:	Councillor Mrs. C. M. McDonald
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Member's representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009 and a number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

The Investigating Officer's reports into the complaints were issued on 30th November 2010. The reports were considered by the Standards Committee on 17th December 2010.

The Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in respect of five of the Subject Members.

The remaining complaints in relation to Councillor Mrs. Christine McDonald were referred to the Standards Committee for final hearing.

Summary of the Allegation

At the meeting on 29th July 2009 there was a problem regarding the seating arrangements. The Chairman of the meeting made a number of rulings which concluded in the resolution that the Labour Group Members be excluded from the meeting. There followed a number of adjournments of the meeting and attendance by the police at the request of the Council. During the final part of the meeting Councillor Mrs. McDonald occupied the seat next to the Leader of the Council, Councillor Hollingworth. Councillor Mrs. McDonald interrupted him and switched his microphone off whilst he was presenting the recommendations to the Council on an item under consideration.

The complaints alleged that Councillor Mrs. McDonald, in behaving in this manner, failed to comply with the Code of Conduct for Bromsgrove District Council in that she:

- (1) failed to treat others with respect (in breach of Part 1 paragraph 3 (1) of the Code of Conduct); and
- (2) conducted herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute (in breach of Part 1 paragraph 5 of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that

stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Councillor Christine McDonald submitted a written apology at the outset of the hearing which acknowledged that her behaviour at the meeting of Full Council on 29th July 2009 was unacceptable. The Standards Committee thanked Councillor Mrs. McDonald for her apology and took copies of the apology for consideration.

Summary of submissions by the Investigating Officer

Mr. Goolden confirmed that he had nothing to add to his written report. Mr. Goolden stated that he considered Councillor Mrs. McDonald's apology was a full and unreserved apology. He also stated that should the Standards Committee ask his opinion regarding whether any sanctions are necessary, he would make a statement to the Committee to the effect that he considered that the full and frank nature of Councillor Mrs. McDonald's apology was a sufficient response to the actions complained of. Mr Goolden stated that the basis for his opinion was that the apology effectively demonstrated that Councillor Mrs. McDonald fully grasped the gravity of the allegations and that she had shown an appropriate level of contrition concerning her conduct at the Council meeting on 29th July 2009.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Mrs. McDonald, confirmed that Councillor Mrs. McDonald had issued the apology wholeheartedly and that, in light of this, she asked the Standards Committee to make a finding that no sanctions be applied to Councillor Mrs. McDonald. She expressed the view that the Council had moved on considerably in the last few years. She had no further representations to make at this stage.

At this stage, the Standards Committee withdrew to take legal advice. On its return, the Committee indicated that the giving of the apology at an early stage in the proceedings was unexpected but was nonetheless welcomed and

had changed the nature of the early discussions. The Committee thanked Councillor Mrs. McDonald for making the apology and this would be fully taken into account, but that the Committee now needed to go on to deal with the findings of fact, whether there was a breach of the code and the sanctions applicable.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Findings of fact

The Investigating Officer and Ms. Randle of behalf of Councillor Mrs. McDonald had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The facts set out in paragraphs 14 to 20 of the Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for Councillor Mrs. McDonald, were adopted by the Committee as the facts of the matter. These facts related to the third part of the Full Council meeting on 29th July 2009, which was when the alleged breaches of the Code took place.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee found as follows:

That Councillor Mrs. McDonald had failed to follow the Code of Conduct by being in breach of Part 1 paragraph 3(1) in that she failed to treat others with respect; and Part 1 paragraph 5 in that she had conducted herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute.

The Standards Committee's reasons for this decision were:

- The agreed Statement of Facts, the Investigating Officer's report and supporting documents contained sufficient evidence to conclude that Councillor Mrs. McDonald's conduct at the meeting of Full Council on 29th July 2009 fell below the appropriate level of behaviour expected of a councillor as prescribed by paragraphs 3(1) and 5 of the Code.
- In her apology issued at the outset of proceedings, Councillor Mrs. McDonald clearly acknowledged that her behaviour at the meeting of Full Council on 29th July 2009 was "totally unacceptable".

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was minded to apply any sanctions not already discussed.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's report and the guidance issued by Standards for England, and having accepted the apology submitted by Councillor Mrs. McDonald and noting the measures put in place by the Council to address previous deficiencies in the constitution and procedures relating to Council meetings, the Committee decided to require Councillor Mrs. McDonald to undertake training relating to the appropriate behaviour expected of an elected councillor.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Mrs. McDonald.
- The appropriate level of behaviour expected of a councillor of which Councillor Mrs. McDonald fell short.
- The offering of a full apology by Councillor Mrs. McDonald for her behaviour, which she recognised as totally unacceptable, made at the outset of the hearing and addressed to Council Members, Council Officers and the public of Bromsgrove District, a copy of which is appended to this decision.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local

Government Standards in England) for permission to appeal the Standards Committee's finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member's receipt of the Standards Committee's full written decision.

.....
Chairman of the Standards Committee

Dated:



Bromsgrove
District Council

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28/07/11

Dear N.A. Burke – Chairman of the Standards Committee

I would be very grateful if you would present my apology to the Standards Committee.

“Not withstanding any provocation that I think that there may have been, I realise that my behaviour at the Council Meeting held on 29th July 2009 was totally unacceptable.

I, therefore, apologise unreservedly to the Council Members, The Council Officers and the public of Bromsgrove District.”

Yours sincerely

Councillor Christine McDonald

[Note: Original letter of apology contains Councillor Mrs. McDonald's signature.
Signature removed from this version for website publication.]

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BROMSGROVE DISTRICT COUNCIL
STANDARDS COMMITTEE HEARING
FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Former Councillor Ms. J. A. Marshall
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) Former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Former Councillor Ms. J. A. Marshall attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Former Councillor Ms. J. A. Marshall's conduct.

The complaints alleged that Former Councillor Ms. J. A. Marshall failed to comply with the Code of Conduct for Bromsgrove District Council in that she:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and

- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was not ideal and he considered the breaches by Former Councillor Ms. J. A. Marshall to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Former Councillor Ms. J. A. Marshall, stated that Former Councillor Ms. J. A. Marshall did not intentionally breach the Code; the context for the advice she received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Former Councillor Ms. J. A. Marshall had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for Former Councillor Ms. J. A. Marshall, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Former Councillor Ms. J. A. Marshall's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Former Councillor Ms. J. A. Marshall's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Former Councillor Ms. J. A. Marshall's financial position.

The Standards Committee found as follows:

That Former Councillor Ms. J. A. Marshall had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that she failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of Facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Former Councillor Ms. J. A. Marshall failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as “technical” breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer’s reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Former Councillor Ms. J. A. Marshall’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary. The Committee also acknowledged that the only sanction which would have been available to the Committee would have been censure because Former Councillor Ms. J. A. Marshall was no longer a member of the Council at the time of the hearing.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Former Councillor Ms. J. A. Marshall.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee's finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member's receipt of the Standards Committee's full written decision.

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Chairman of the Standards Committee

Dated:

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Councillor Mrs. C. M. McDonald
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Councillor Mrs. McDonald attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Councillor Mrs. McDonald's conduct.

The complaints alleged that Councillor Mrs. McDonald failed to comply with the Code of Conduct for Bromsgrove District Council in that she:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and
- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was not ideal and he considered the breaches by Councillor Mrs. McDonald to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Mrs. McDonald, stated that Councillor Mrs. McDonald did not intentionally breach the Code; the context for the advice she received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Councillor Mrs. McDonald had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for the Subject Members, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Councillor Mrs. McDonald's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Councillor Mrs. McDonald's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Councillor Mrs. McDonald's financial position.

The Standards Committee found as follows:

That Councillor Mrs. McDonald had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that she failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of Facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Councillor Mrs. McDonald failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as "technical" breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Councillor Mrs. McDonald’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Mrs. McDonald.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee’s finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member’s receipt of the Standards Committee’s full written decision.

.....
Chairman of the Standards Committee

Dated:

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Councillor Mr. P. M. McDonald
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Councillor Mr. McDonald attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Councillor Mr. McDonald's conduct.

The complaints alleged that Councillor Mr. McDonald failed to comply with the Code of Conduct for Bromsgrove District Council in that he:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and
- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was not ideal and he considered the breaches by Councillor Mr. McDonald to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Mr. McDonald, stated that Councillor Mr. McDonald did not intentionally breach the Code; the context for the advice he received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Councillor Mr. McDonald had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for the Subject Members, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Councillor Mr. McDonald's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Councillor Mr. McDonald's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Councillor Mr. McDonald's financial position.

The Standards Committee found as follows:

That Councillor Mr. McDonald had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that he failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of Facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Councillor Mr. McDonald failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as "technical" breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Councillor Mr. McDonald’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Mr. McDonald.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee’s finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member’s receipt of the Standards Committee’s full written decision.

.....
Chairman of the Standards Committee

Dated:

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Councillor Mr. E. J. Murray
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Councillor Murray attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Councillor Murray's conduct.

The complaints alleged that Councillor Murray failed to comply with the Code of Conduct for Bromsgrove District Council in that he:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and
- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was no ideal and he considered the breaches by Councillor Murray to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Murray, stated that Councillor Murray did not intentionally breach the Code; the context for the advice he received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Councillor Murray had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for the Subject Members, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Councillor Murray's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Councillor Murray's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Councillor Murray's financial position.

The Standards Committee found as follows:

That Councillor Murray had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that he failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Councillor Murray failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as "technical" breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although that any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Councillor Murray’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Murray.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee’s finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member’s receipt of the Standards Committee’s full written decision.

.....
Chairman of the Standards Committee

Dated:

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Councillor Mr. S. P. Shannon
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Councillor Shannon attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Councillor Shannon's conduct.

The complaints alleged that Councillor Shannon failed to comply with the Code of Conduct for Bromsgrove District Council in that he:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and
- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was not ideal and he considered the breaches by Councillor Shannon to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Shannon, stated that Councillor Shannon did not intentionally breach the Code; the context for the advice he received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Councillor Shannon had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for the Subject Members, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Councillor Shannon's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Councillor Shannon's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Councillor Shannon's financial position.

The Standards Committee found as follows:

That Councillor Shannon had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that he failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of Facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Councillor Shannon failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as "technical" breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Councillor Shannon’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Shannon.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee’s finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member’s receipt of the Standards Committee’s full written decision.

.....
Chairman of the Standards Committee

Dated:

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Councillor Mr. C. J. K. Wilson
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Councillor Wilson attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Councillor Wilson's conduct.

The complaints alleged that Councillor Wilson failed to comply with the Code of Conduct for Bromsgrove District Council in that he:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and
- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was not ideal and he considered the breaches by Councillor Wilson to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Wilson, stated that Councillor Wilson did not intentionally breach the Code; the context for the advice he received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Councillor Wilson had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for the Subject Members, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Councillor Wilson's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Councillor Wilson's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Councillor Wilson's financial position.

The Standards Committee found as follows:

That Councillor Wilson had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that he failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of Facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Councillor Wilson failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as "technical" breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Councillor Wilson’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Wilson.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee’s finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member’s receipt of the Standards Committee’s full written decision.

.....
Chairman of the Standards Committee

Dated:

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