



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

TUESDAY 19TH JULY 2011 AT 10.00 A.M.

COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Independent Members: Mr. N. A. Burke (Chairman), Ms. K. J. Sharpe (Vice-Chairman) and Mrs. G. Bell
District Councillors: Mrs. S. J. Baxter, L. Mallett and Mrs. M. A. Sherrey JP
Parish Councils' Representatives: Mr. J. Cypher (Alvechurch Parish Council) and Mr. I. A. Hodgetts (Romsley Parish Council)
[Note: District Councillor S. R. Colella, who forms part the normal District Councillor membership of the Standards Committee, is affected by some of the issues under consideration and therefore will not be participating in the meeting.]

AGENDA - FINAL DETERMINATION HEARING

HEARING PROCEDURE NOTES (Pages 1 - 4)

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest
3. Exclusion of the Public

[To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of an item of business containing exempt information:

"RESOLVED: that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraph of that part being as set out below, and that it is in the public interest to do so:

<u>Item No.</u>	<u>Paragraph</u>
4	7C"]

4. Final Determination of Complaints relating to the meetings of Full Council held on 29th July 2009 and 20th January 2010

[To make final determinations in relation to complaints against the following District/Formal District Councillors:

- i) 2009 complaints against Councillor Mrs. C. M. McDonald;
- ii) 2010 complaint against former Councillor Ms. J. A. Marshall;
- iii) " " " Councillor Mrs. C. M. McDonald;
- iv) " " " " P. M. McDonald;
- v) " " " " E. J. Murray;
- vi) " " " " S. P. Shannon; and
- vii) " " " " C. J. K. Wilson.]

5. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

6. Exclusion of the Public

[Should it prove necessary, in the opinion of the Chief Executive, to exclude the public from the meeting at any point during the proceedings in relation to any items of business (in addition to the business set out at agenda item 4 above) on the grounds that either exempt and/or confidential information is likely to be divulged, the following resolution(s) will be moved:

"That under Section 100 I of the Local Government Act 1972, as amended, it/they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraphs of that part being (*...to be specified by the Chairman at the meeting*), and that it is in the public interest to do so.", and/or

"That under Section 100 A of the Local Government Act 1972, as amended, it/they involve the likely disclosure of confidential information which would be in breach of an obligation of confidence."]

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA
8th July 2011



INFORMATION FOR THE PUBLIC

Access to Information

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000 has further broadened these rights, and limited exemptions under the 1985 Act.

- You can attend all Council, Cabinet and Committee/Board meetings, except for any part of the meeting when the business would disclose confidential or “exempt” information.
- You can inspect agenda and public reports at least five days before the date of the meeting.
- You can inspect minutes of the Council, Cabinet and its Committees/Boards for up to six years following a meeting.
- You can have access, upon request, to the background papers on which reports are based for a period of up to six years from the date of the meeting. These are listed at the end of each report.
- An electronic register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc. is available on our website.
- A reasonable number of copies of agendas and reports relating to items to be considered in public will be made available to the public attending meetings of the Council, Cabinet and its Committees/Boards.
- You have access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned, as detailed in the Council’s Constitution, Scheme of Delegation.

You can access the following documents:

- Meeting Agendas
- Meeting Minutes
- The Council’s Constitution

at www.bromsgrove.gov.uk

Declaration of Interests - Explained

Definition of Interests

A Member has a **PERSONAL INTEREST** if the issue being discussed at a meeting affects the well-being or finances of the Member, the Member's family or a close associate more than most other people who live in the ward affected by the issue.

Personal interests are also things relating to an interest the Member must register, such as any outside bodies to which the Member has been appointed by the Council or membership of certain public bodies.

A personal interest is also a **PREJUDICIAL INTEREST** if it affects:

- The finances, or
- A regulatory function (such as licensing or planning)

Of the Member, the Member's family or a close associate **AND** which a reasonable member of the public with knowledge of the facts would believe likely to harm or impair the Member's ability to judge the public interest.

Declaring Interests

If a Member has an interest they must normally declare it at the start of the meeting or as soon as they realise they have the interest.

EXCEPTION:

If a Member has a **PERSONAL INTEREST** which arises because of membership of another public body the Member only needs to declare it if and when they speak on the matter.

If a Member has both a **PERSONAL AND PREJUDICIAL INTEREST** they must not debate or vote on the matter and must leave the room.

EXCEPTION:

If a Member has a prejudicial interest in a matter being discussed at a meeting at which members of the public are allowed to make representations, give evidence or answer questions about the matter, the Member has the same rights as the public and can also attend the meeting to make representations, give evidence or answer questions **BUT THE MEMBER MUST LEAVE THE ROOM ONCE THEY HAVE FINISHED AND CANNOT DEBATE OR VOTE.**

However, the Member must not use these rights to seek to improperly influence a decision in which they have a prejudicial interest.

For further information please contact Committee Services, Legal, Equalities and Democratic Services, Bromsgrove District Council, The Council House, Burcot Lane, Bromsgrove, B60 1AA

Tel: 01527 873232 Fax: 01527 881414

Web: www.bromsgrove.gov.uk email: committee@bromsgrove.gov.uk

Appendix

Standards Committee

Final Determination – Hearing Procedure

Representation

1. The Subject Member who is the subject of the allegation (“the Subject Member”) may be represented or accompanied during the meeting by a solicitor, counsel or another person; the permission of the Standards Committee is required to allow the Subject Member to be represented or accompanied by a non-legal representative. The Committee may choose to withdraw its permission to allow a representative if that representative disrupts the hearing.

Legal Advice

2. The Committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be announced to the meeting.

Introduction

3. The Chairman will introduce the members of the Committee, the Investigating Officer and the officers present. The Subject Member will introduce any person who is acting as his or her representative and any witnesses to be called on his or her behalf. The Investigating Officer will introduce any witnesses to be called.
4. The Chairman will outline the procedure to be followed.

Preliminary Issues

5. The Committee will then consider and decide on any preliminary issues which have not been resolved as part of the pre-hearing process.
6. The Committee may adjourn the meeting and move to another room to consider those issues. On its return, the Chairman will announce the Committee’s decision.

Facts in Dispute

7. The Committee will then identify whether there are any significant disagreements about the facts contained in the Investigating Officer’s report.
8. If there are no disagreements about the facts, the Committee will move to the next stage of the hearing – **Did the Subject Member fail to follow the Code** at paragraph 16 below.
9. If there is a disagreement, the Investigating Officer, if present, will be invited to make representations to support the relevant findings of fact in the report. The Investigating Officer may call witnesses to give evidence. The Committee will give the Subject Member an opportunity

to challenge any evidence put forward by any witness called by the Investigating Officer.

10. The Subject Member may then make representations to support his or her version of the facts and call any necessary witnesses to give evidence.
11. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the Investigating Officer to challenge any evidence put forward by witnesses called by the Subject Member.
12. If the Subject Member disagrees with most of the facts, the Investigating Officer may make representations on all the relevant facts, instead of discussing each fact individually.
13. If the Subject Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the Committee will consider whether or not it would be in the public interest to continue in the Investigating Officer's absence. After considering the Subject Member's explanation for not raising the issue at an earlier stage, the Committee may then:
 - a) continue with the hearing, relying on the information in the Investigating Officer's report;
 - b) allow the Subject Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
 - c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.
14. The Committee will usually adjourn the meeting and move to another room to consider the representations and evidence in private.
15. On its return, the Chairman will announce the Committee's findings of fact.

Did the Subject Member fail to follow the Code?

16. The Committee will then consider whether or not, based on the facts it has found, the Subject Member has failed to follow the Code of Conduct.
17. The Subject Member will be invited to give relevant reasons why the Committee should not decide that he or she has failed to follow the Code.

18. The Committee will then consider any oral or written representations from the Investigating Officer.
19. The Committee may, at any time, question anyone involved on any point they raise in their representations.
20. The Subject Member will be invited to make any final relevant points.
21. The Committee will adjourn the meeting and move to another room to consider the representations.
22. On its return, the Chairman will announce the Committee's decision as to whether or not the Subject Member has failed to follow the Code of Conduct.

If the Subject Member has not failed to follow the Code of Conduct

23. If the Committee decides that the Subject Member has not failed to follow the Code of Conduct, the Committee will consider whether it should make any recommendations to the relevant authority.

If the Subject Member has failed to follow the Code

24. If the Committee decides that the Subject Member has failed to follow the Code of Conduct, it will consider any oral or written representations from the Subject Member as to whether or not the Committee should impose a sanction and what form any sanction should take.
25. The Committee may question the Subject Member, and take legal advice to ensure it has the information it needs in order to make a decision.
26. The Committee will then adjourn the meeting and move to another room to consider whether or not to impose a sanction on the Subject Member and, if so, what the sanction should be.
27. On its return, the Chairman will announce the Committee's decision.

Recommendations to the authority

28. After considering any oral or written representations from the Investigating Officer the Committee will consider whether or not it should make any recommendations to the relevant authority, with a view to promoting high standards of conduct among Members.

The written decision

29. The Committee will announce its decision on the day and provide a short written decision on that day. A full written decision will be issued shortly after the hearing.

Making the Findings Public

30. The Committee must arrange for a summary of the decision and reasons for that decision to be published in one or more newspapers. If the Committee finds that the Subject Member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding. In these cases, the Subject Member is entitled to ask that no summary of the decision should be passed to local newspapers.
31. If the Committee finds that the Subject Member failed to follow the Code of Conduct but that no action is needed, the public summary must say that the Subject Member failed to follow the Code, outline what happened and give reasons for the Committee's decision not to take any action.
32. If the Committee finds that the Subject Member failed to follow the Code and it imposes a sanction the public summary must say that the Subject Member failed to follow the Code of Conduct, outline what happened, explain what sanction has been imposed and give reasons for the decision made by the Committee.

Appeal

33. The Subject Member may appeal against the decision within 21 days from the date of the full written decision.