



BROMSGROVE DISTRICT COUNCIL

SPECIAL MEETING OF THE STANDARDS COMMITTEE

WEDNESDAY, 21ST MARCH, 2007 AT 4.00 PM

(PLEASE NOTE CHANGE OF COMMENCEMENT TIME OF MEETING)

COUNCIL CHAMBER, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Mrs. N. E. Trigg (Chairman), Councillors E. C. Tibby (Vice-Chairman), Mrs. J. D. Luck, C. R. Scurrall, S. P. Shannon, Mrs. C. J. Spencer, Mr. S. E. Allard and Mr. B. J. Somner (Parish Council Representative)

AGENDA

1. Apologies
2. Declarations of Interest
3. Minutes of last Meeting (Pages 1 - 4)
4. Local Investigation of a complaint to the Standards Board (Pages 5 - 10)

(NOTE: Members are requested to bring with them to the Meeting a copy of the Investigating Officer's Final Report, dated 19th January 2007, which has been previously circulated)

K. DICKS
Acting Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

12th March 2007.

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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

WEDNESDAY, 21ST FEBRUARY 2007

PRESENT: Mrs N.E. Trigg (Chairman), Councillors E.C. Tibby (Vice-Chairman), Mrs J.D. Luck, S.P. Shannon and Mrs C.J. Spencer and Mr. S. Allard (Independent Member)

Officers: Mrs. C. Felton and Messrs. A. Jessop, N. Shovell and J. Wright.

21/06 **APOLOGIES**

No apologies for absence were submitted.

22/06 **DECLARATIONS OF INTEREST**

No declarations of interest were made.

23/06 **MINUTES**

The Minutes of the Meeting of the Committee held on 14th December 2006, were submitted.

RESOLVED that the Minutes be approved and confirmed as a correct record.

24/06 **CONFIDENTIAL REPORTING CODE**

A revised Confidential Reporting Code, which updated the previously agreed document in 2004, was submitted. It was reported that the document had already been considered by the Corporate Management Team, informal Leaders Group and the Audit Board, and was currently being considered by the Unions, and to date there had been no material change to the substance of the report. Accordingly, the views of the Committee were sought prior to its submission to the Executive Cabinet.

RECOMMENDED:

- (i) that, from a practical viewpoint, any future updates/amendments proposed to the Code be highlighted (possibly in italics) rather than submitting a new document in full;
- (ii) that, insofar as Paragraph 1.6 was concerned, a concern was expressed that the wording implies an obligation on the Council and third parties (who would be providing a service to the Council under a contract, over which the Council had no control), to adhere to a document when there was no way of monitoring whether they had, in fact, adhered to it; and

- (iii) that, in all other respects, the report be commended to the Executive Cabinet with the caveat that the Head of Legal and Democratic Services be granted delegated authority to amend the Code following the necessary consultation with the Unions and any other relevant bodies.

25/06 **RESIGNATION OF AN INDEPENDENT MEMBER OF THE COMMITTEE**

It was reported that, due to work commitments, Mr.M. O'Mahoney had resigned as an Independent Member of the Committee , and that, accordingly, an advertisement for his replacement would be placed shortly. The Committee were asked to indicate their preferred option for the length of his successor's term of office.

RESOLVED;

- (i) that, in order to retain a uniform "end date" for all of the Independent Members on the Committee, the term of office of Mr. O'Mahoney's successor expire in November 2011; and
- (ii) that the thanks of the Committee be formally recorded for the contribution made by Mr. O'Mahoney to this Committee since its inception six years ago; and
- (iii) the Chairman be requested to send a letter to Mr. O'Mahoney along the lines as set out in (ii) above.

26/06 **LOCAL INVESTIGATION OF A COMPLAINT TO THE STANDARDS BOARD**

Following the recent referral from the Standards Board of an allegation of a breach of the Code of Conduct for local investigation, it was necessary to convene a special meeting of the Committee to consider such case.

RESOLVED that a special meeting of the Standards Committee be held at 4.00 p.m. on Wednesday, 21st March 2007 to consider Case Ref. SBE16030.06)

27/06 **DATES OF FUTURE MEETINGS OF THE COMMITTEE**

A schedule of dates of future meetings of the Standards Committee was submitted, for information.

RESOLVED that the report be noted and approved, save for the inclusion of a meeting in June 2007, with the date to be advised in due course.

28/06 **CONSULTATION ON REVISED CODE OF CONDUCT**

A report relating to a Revised Model Code of Conduct for Local Authority Members was submitted, together with a copy of a consultation document setting out the details of the amendments to the Code, and the views/comments of the Committee were sought.

RECOMMENDED that the Council be requested to approve the submission of the following comments in response to the consultation:-

(i) General

By becoming overtly prescriptive, the document becomes too intense, difficult to interpret and very rigid (almost a "checklist") which, if issues did not fall neatly into such list, could create "grey areas". The document was seen, however, as an attempt to be more proportionate, trying to ensure that democracy is enhanced, not undermined.

(ii) Unlawful Discrimination.

The proposed amendment to the Code is supported.

(iii) Bullying

There is a concern that any description of bullying behaviour should not be drawn too broadly, e.g. a "robust exchange" should not be interpreted as bullying.

(iv) Disclosure of Confidential Information

The proposed amendment to the Code is supported.

However Members felt that where interpretative Guidance Notes were to be issued to support the Code, it would be helpful if they were issued at the same time as the Consultation Paper, even if they were in draft form so Members could fully understand what was being proposed. Furthermore, the Committee felt that guidance should be "as appropriate as required", and that Members should be advised that this was not a hook on which they could hang inappropriate reporting-therefore there was a need to enforce in the Guidance the importance of confidentiality at all times.

(v) Commission of Criminal Offence before taking Office

The proposed amendment to the Code is supported. Members were also keen to ensure that, whatever changes were made to the Code in this regard, action should still be able to be taken, in appropriate (serious) cases to suspend any Member against whom criminal proceedings had commenced but had not yet been concluded.

(vi) Using or seeking to use improper influence

The proposed amendments to the Code are supported.

(vii) Publicity Code

The proposed amendment to the Code is supported.

(viii) Reporting breaches of the code and proscribing intimidation

The proposed amendment to the Code is supported.

(ix) Gifts and Hospitality

With public office currently running for a maximum period of four years, the Committee questioned why the requirement to disclose would "cease after five years following the receipt of the gift or hospitality".

(x) Body influencing public opinion or policy

The proposed amendment to the Code is supported.

(xi) Interests of family, friends and those with a close personal association

The proposed amendment to the Code is supported.

(xii) Definition of personal interests

The proposed amendment to the Code is supported.

(xiii) Disclosure of personal interests

The proposed amendment to the Code is supported.

(xiv) Public service interests

The proposed amendment to the Code is supported.

(xv) Prejudicial Interests - List of Exemptions

Any Councillor who was a member of a Committee and who had a prejudicial interest in a particular issue should have the opportunity, having declared the nature of their interest, to address/make a statement to the Committee on the issue (but not to vote) before absenting themselves from the meeting.

(xvi) Overview and Scrutiny Committees

The Committee are of the view that the time constraints where former members of the Executive cannot be involved in Overview and Scrutiny deliberations on issues with which they were involved in creating should be a maximum of three years.

(xvii) Participation in relation to prejudicial interests

Subject to the comments in (xv) above the proposed amendment to the Code is supported.

(xviii) Sensitive information

The proposed amendment to the Code is supported.

(ixx) Register of member's interests

The proposed amendment to the Code is supported.

(xx) Gender neutrality of language

The proposed amendment to the Code is supported.

29/06 **JOHN WRIGHT**

The Chairman informed the Committee that this was the last Standards Committee meeting that John Wright, Democratic Services Manager, would be attending, and wished to place on record her thanks for his help and guidance during his time with the Council.

The meeting closed at 6.20 p.m.

Chairman

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

21 MARCH 2007

LOCAL INVESTIGATION OF A COMPLAINT TO THE STANDARDS BOARD

Responsible Portfolio Holder	Mrs. C. J. Spencer
Responsible Head of Service	Claire Felton, Monitoring Officer

1. SUMMARY

- 1.1 To consider a complaint referred by the Standards Board for England to this Council for local determination.

2. RECOMMENDATION

- 2.1 The Committee is requested to determine the complaint in accordance with the procedure for these hearings as set out below.

3. BACKGROUND

- 3.1 The Standards Board for England has referred a complaint to the Council for local determination. The allegation is that the subject member failed to comply with the Council's Code of Conduct by failing to declare a personal interest and prejudicial interest at the Council's Planning Committee meeting on 10 January 2005 and failing to withdraw from the room contrary to paragraphs 9(1) and 12(1) of the Council's Code of Conduct. The complaint has been investigated by the Deputy Monitoring Officer ("the Investigating Officer") and the Investigating Officer's final report has been forwarded to the subject member, the complainant and all members of the Standards Committee.
- 3.2 The Investigating Officer has made a finding that there has been a failure to comply with the Council's Code of Conduct and in accordance with the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 and the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004 the complaint has been referred to the Standards Committee for final determination.
- 3.3 In accordance with the Standards Board guidance the subject member has been contacted and it has been ascertained that the subject member
- Does not disagree with any of the findings of fact in the Investigating Officer's report;

- Does not wish to be represented at the hearing by a solicitor, barrister or any other person;
- Wishes to give evidence to the Standards Committee in person;
- Does not wish to call witnesses to give evidence;
- Does wish part of the hearing to be held in private, but has not specified any reason for this;
- Does wish part of the relevant documents to be withheld from the public, but does not specify which documents or give any reason for this;
- Can attend the hearing.

Procedure for the Meeting

3.4 The procedure for the hearing is based on the model procedures produced by the Standards Board. In accordance with Standards Board guidance there has been a pre-hearing meeting between the Monitoring Officer and the Chairman of the Committee to identify any issues in dispute and agree an appropriate means of addressing them at the hearing.

3.4.1 The subject member and the Investigating Officer will be invited to address the committee on whether the matter should be heard in public or in private. If either or both wish to address the committee then their attention should be drawn to the exemptions available under the access to information legislation (together with the Local Authorities (Standards Committees) Regulations 2001 as amended) and the need for the committee to consider whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

3.4.2 The Committee will decide whether to hear the matter in private or in public. If the Committee decides to hear the matter in public, the final report of the Investigating Officer will at that point enter the public domain and will be distributed to members of the public and press present at the meeting.

3.4.3 The Chairman of the Committee, in consultation with the Monitoring Officer, has ascertained that there are no issues within the Investigating Officers report that are disputed by the subject member. Witnesses will not therefore be called.

3.4.4 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.

3.4.5 The Committee will consider any oral or written representations from the Investigating Officer.

3.4.6 The Committee may at any time question anyone involved on any point raised in their representations.

3.4.7 The subject member will be invited to make any final relevant points.

3.4.8 The Committee will retire to consider in private the representations received from both the Investigating Officer and the subject member.

3.4.9 The Chairman will announce the Committee's findings as to whether or not the subject member has failed to follow the Code of Conduct. The Committee can make one of the following findings:

- the subject member has not failed to follow the Code of Conduct;
- the subject member has failed to follow the Code of Conduct but no action needs to be taken; or
- the subject member has failed to follow the Code of Conduct and should be penalised.

If the Committee finds that subject member has failed to follow the Code of Conduct it will consider whether recommendations should be made to the Council with a view to promoting high standards of conduct among members.

3.4.10 The Committee may ask the Investigating Officer questions to assist it in determining the appropriate level of penalty.

3.4.11 The Committee may ask the subject member questions to assist it in determining the appropriate level of penalty

3.4.12 The subject member will be invited to make representations to the Committee which may influence the level of penalty imposed by the Committee.

3.4.13 The Committee will then retire to consider in private the appropriate level of penalty.

3.4.14 The Chairman will announce the Committee's decision. A short written decision will be provided on the day. A full written decision will be issued as soon as practicable after the end of the hearing.

Penalties

3.5 If the Standards Committee finds that the subject member has failed to follow the Code of Conduct and that he or she should be penalised it may do any one or a combination of the following:

- Censure the subject member;

- Restrict the subject member's access to the resources of the relevant authority for up to three months, which could include limiting access to the premises of the relevant authority;
- Suspend or partly suspend the subject member for up to three months. Suspension or partial suspension will normally start immediately after the Standards Committee has made its decision. However if the Standards Committee chooses the penalty may start at any time up to six months following its decision. This may be appropriate if the penalty would otherwise have little effect on the member, for example in the case of a suspension or partial suspension if there are no authority or Committee meetings which the member would normally attend in the period following the conclusion of the hearing;
- Suspend or partly suspend the subject member for up to three months on the condition that the suspension or partial suspension will end if the member apologises in writing, receives any training or takes part in any conciliation order by the Committee. Conciliation involves an independent person helping the relevant people try to reach an agreement on the matter.

Deciding a Penalty

3.6 When deciding a penalty, the Standards committee should make sure it is reasonable and in proportion to the subject member's behaviour. Before deciding what penalty to set, the Standards Committee should consider the following question, along with any other relevant circumstances:

- What was the member's intention? Did the member know that he or she was failing to follow the Code of Conduct?
- Did the member get advice from officers before the incident? Was that advice acted on in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety (for example, improper expense claims or procedural irregularities)
- What was the result of failing to follow the Code of Conduct?
- How serious was the incident?
- Does the member accept he or she was at fault?
- Did the member apologize to the relevant people?
- Has the member previously been warned or reprimanded for similar misconduct?
- Has the member failed to follow the Code of Conduct before?
- Is the member likely to do the same thing again?

3.7 Standards Board guidance suggests that suspension may be appropriate for more serious cases such as those involving:

- bullying officers; or
- trying to gain an advantage or disadvantage for themselves or others; or
- dishonesty or breaches of trust.

- 3.8 Penalties involving restricting access to an authority's premises or equipment should not unnecessarily restrict a member's ability to carry out his or her responsibilities as an elected representative or co-opted member.

Making the Findings Public

- 3.9 The Standards Committee must also 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 a 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 member involved is also entitled to ask that no summary of the decision should be passed to local newspapers.
- 3.10 If the Committee finds that a member failed to follow the Code of Conduct but that no action is needed, the public summary must say that the member failed to follow the Code, outline what happened and give reasons for the Standard Committee's decision not to take any action.
- 3.11 If the Committee finds that a member failed to follow the Code and it sets a penalty, the public summary must say that the member failed to follow the Code of Conduct, outline what happened, explain what penalty has been set and give reasons for the decision made by the Standards Committee.

4. FINANCIAL IMPLICATIONS

- 4.1 None

5. LEGAL IMPLICATIONS

- 5.1 Local determinations of complaints made to the Standards Board for England are held under Regulations made under the Local Government Act 2000.

6. CORPORATE OBJECTIVES

- 6.1 Improvement – Reputation and Performance

7. RISK MANAGEMENT

- 7.1 Not applicable.

8. CUSTOMER IMPLICATIONS

- 8.1 Not applicable

9. OTHER IMPLICATIONS

Procurement Issues None

Personnel Implications None
Governance/Performance Management None
Community Safety including Section 17 of Crime and Disorder Act 1998 None
Policy None
Environmental None
Equalities and Diversity None

10. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	No
Acting Chief Executive	No
Corporate Director (Services)	No
Assistant Chief Executive	No
Head of Service	N/a
Head of Financial Services	No
Head of Legal & Democratic Services	Y/a
Head of Organisational Development & HR	No
Corporate Procurement Team	No

CONTACT OFFICER

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