

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.

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Chairman of the Standards Committee

Dated: