

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

24TH FEBRUARY 2010

CONSIDERATION MEETING COMPLAINTS REF: 03/09 and 04/09

Responsible Portfolio Holder	Councillor Geoff Denaro
Responsible Head of Service	Claire Felton, Monitoring Officer
This report contains exempt information as defined in Paragraph 7C of Part I of Schedule 12A to the Local Government Act 1972, as amended	

1. SUMMARY

The Committee is requested to consider the Investigating Officer's report and finding of no failure to follow the Code of Conduct in relation to complaints ref: 03/09 and 04/09.

2. RECOMMENDATION

2.1 The Committee is requested to consider the Investigating Officer's report and decide either:

2.1.1 that it accepts the Investigating Officers finding of no failure ("a finding of acceptance"); or

2.1.2 that the matter should be considered at a hearing of the Standards Committee; or

2.1.3 that the matter should be referred to the First-tier Tribunal (Local Government Standards in England) for determination, subject to paragraph 3.4 below.

2.2 If the Committee is minded to consider option 2.1.2 the Committee is requested to consider potential issues which might arise during the pre-hearing process.

3. BACKGROUND

3.1 Under Regulation 17 of the Standards Committee (England) Regulations 2008 ("the Regulations") a meeting of the Standards Committee must be convened to consider a report into an alleged breach of the Code of Conduct prepared by an Investigating Officer appointed by the Monitoring Officer ("the Consideration Meeting").

- 3.2 At the Consideration Meeting in respect of a report where the Investigating Officer reaches a finding of no failure to follow the Code of Conduct, the Committee must make one of the following findings:
- (a) it accepts the Investigating Officer's finding of no failure ("a finding of acceptance"); or
 - (b) that the matter should be considered at a hearing of the Standards Committee; or
 - (c) that the matter should be referred to the First-tier Tribunal (Local Government Standards in England) for determination, subject to paragraph 3.4 below.
- 3.3 If the Standards Committee is minded to decide that the matter should proceed to final determination, notwithstanding the Investigating Officer's finding of no breach, Standards for England ("SfE") guidance is that a Consideration Meeting provides a useful opportunity for the Committee to consider potential issues which might arise during the pre-hearing process.
- 3.4 If the Standards Committee is minded to decide that the matter should be referred to the First-tier Tribunal (Local Government Standards in England), notwithstanding the Investigating Officer's finding of no breach, a Standards Committee may only decide to do so if it has determined that the action it could take against the Member would be insufficient were a finding of failure to be made and that the Principal Judge of the Tribunal has agreed to accept the referral. If the Committee is minded to refer the matter to the Tribunal for determination it would be appropriate to adjourn the Consideration Meeting to enable officers to seek the agreement of the Principal Judge to accept the referral.
- 3.5 If the Committee makes a finding of acceptance the Committee must give written notice of that finding to the Subject Member and the complainants. In addition, a notice must be published stating that the Committee has found that there has been no failure on the part of the subject member to comply with the Code of conduct unless the Subject Member requests otherwise.
- 3.6 The Investigating Officer's report into complaints ref: 03/09 and 04/09 is appended to this report as Appendix 1. The Committee is requested to consider the report and reach one of the findings at paragraph 3.2 above. If the Committee is minded to refer the matter for final determination, the Committee is requested to consider in addition potential issues which might arise during the pre-hearing process.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

- 5.1 The Local Government Act 2000 introduced primary legislation to enable the implementation of a Members' Code of Conduct, and this was amended by the Local Government and Public Involvement in Health Act 2007 insofar as it related to the application of the Members' Code of Conduct to their private lives. The local assessment regime was introduced by the LGPIHA 2007, and further expanded in the Standards Committee (England) Regulations 2008 which also set out the rules and procedures governing the investigation and determination of complaints.
- 5.2 This report is exempt in accordance with Section 100 I of the Local Government Act 1972, as amended, because the Standards Committee (England) Regulations 2008 provide that information presented to a standards committee or to a sub-committee of a standards committee set up to consider any matter under regulations 13 or 16 to 20 of the Regulations, is exempt information.
- 5.3 The Committee must decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Standards for England ("SfE") guidance on carrying out this balancing exercise at Consideration Meetings is set out in the SfE guidance for Standards Committee Determinations on page 6. This advises that in most cases the public interest in transparent decision-making by the Standards Committee will outweigh the subject member's interest in limiting publication of an unproven allegation that has not yet been determined.
- 5.4 The Committee should consider whether the report contains information which is either confidential (as defined by section 100A of the Local Government Act 1972 as amended) or exempt under paragraphs other than paragraph 7C of Part I of Schedule 12A to the Local Government Act 1972, as amended.
- 5.5 If the Committee decides at this stage to lift the exemption for the Consideration Meeting, the exemption will not be applied to agenda and report for the Final Determination hearing.

6. COUNCIL OBJECTIVES

N/A

7. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

- 7.1 The main risk associated with the details included in this report is:
- *Risk of challenge to Council decisions.*
- 7.2 This risk is being managed as follows:
- Risk Register: *Legal, Equalities and Democratic Services*
Key Objective Ref No: 3

Key Objective: *Effective ethical governance*

8. CUSTOMER IMPLICATIONS

The decision of the Committee will be published as part of the minutes of the meeting.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

None

10. VALUE FOR MONEY IMPLICATIONS

None

11. CLIMATE CHANGE AND CARBON IMPLICATIONS

None

12. 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

13. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	No
Chief Executive	No
Executive Director - Partnerships and Projects	No
Executive Director - Services	No
Assistant Chief Executive	No
Head of Service	Yes

Head of Financial Services	No
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

14. WARDS AFFECTED

All wards

15. APPENDICES

Appendix 1 Investigating Officer's report into complaints ref: 03/09 and 04/09

16. BACKGROUND PAPERS

None

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