

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Reference number 14 / 08

Hearing in relation to a possible breach of the Code of Conduct of failing to complete the Register of Members Interests within required 28 day period.

Member subject to allegation	Councillor D. Carter
Investigating Officer	Mrs. V. Brown
Date of report:	14 August 2009
Name of Member's representative:	N/A
Relevant authority concerned:	Catshill and North Marlbrook Parish Council
Date of the hearing:	03 February 2010
Names of Standards Committee members:	
Chairman:	Mr. N. A. Burke Mr. J. Cypher Mr. I. A. Hodgetts Mrs. D. Roberts Councillor E.C. Tibby Councillor Miss D.H. Campbell
Standards Committee Legal Adviser:	Mrs. S. Sellers
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

The Standards Assessment Sub-Committee considered an allegation about the Subject Member on 23 January 2009 and decided to refer the matter to the Monitoring Officer for local investigation having identified that the Subject Member might have failed to comply with the Code of Conduct by failing to register interests.

Following the Subject Members' completion and delivery to the Monitoring Officer of a Register of Interests form on 03 February 2009 the Monitoring Officer referred the matter back to the Assessment Sub-Committee for reconsideration under Regulation 16 of the Standards (England) Committee Regulations 2008.

On 20 February 2009 the Assessment Sub-Committee decided again to refer the matter to the Monitoring Officer for local investigation.

The Monitoring Officer appointed Mrs. V. Brown to investigate the allegation.

Summary of the Allegation

That Councillor Carter failed to comply with the Code of Conduct for Catshill and North Marlbrook Parish Council in that:-

- (1) following the adoption of the Council's revised Code of Conduct on 26 June 2008 he failed to complete and return his Register of Interests Form in accordance with the requirement to do so within 28 days in breach of Part 3 paragraph 14 of the Code of Conduct.

Preliminary Issues

The Standards Committee had decided at an earlier initial consideration meeting on 23 September 2009 that the written papers and oral evidence were to be considered in public.

The Standards Committee considered whether the hearing should proceed or be adjourned as Councillor Carter having been given notice of the time and date of the hearing was not in attendance and had not contacted the Committee to ask for an adjournment. Legal advice was given in relation to Regulation 18 (7) of the Standards Committee (England) Regulations 2008. Having noted that the previous hearing date of 11 November 2009 had been vacated at the request of Councillor Carter the Committee did not consider

there was sufficient reason for the failure to attend and decided to proceed with the hearing in the absence of Councillor Carter.

Findings of fact

The facts set out in paragraphs 5.1 to 5.22 of the Investigating Officer's Report were undisputed and were therefore adopted by the Committee as the facts of the matter.

Summary of submissions by the Investigating Officer

Mrs. Brown confirmed that the contents of her report were correct and accurate. She explained that Councillor Carter had not responded to requests to participate in the investigation. As such she had not been able to speak to him and was therefore unable to advise the Committee in her report or at the hearing of any explanation there may have been for the failure to submit the Register of Interests form within the permitted 28 day timescale.

Summary of submissions by the Subject Member

Councillor Carter was not present and had not submitted any representations in writing.

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

The Standard Committee found as follows:-

1. That Councillor Carter had failed to follow the Code of Conduct by being in breach of Part 3 paragraph 13(1) in that he did not provide the Monitoring Officer with the Members' Register of Interests Form within 28 days of the Code of Conduct being adopted by Catshill and North Marlbrook Parish Council.

The Standards Committee's reasons for this decision were:

- The revised Code of Conduct placing Councilors under an obligation to complete a new style Register of Members Interests form was formally adopted by the Parish Council on 26 June 2008. Councillor Carter was present at the meeting and subsequently was sent several reminder letters asking him to return his form.

- The facts of the case which have not been challenged by Councillor Carter are that the Register of Interests form was not returned until after the 28 day time limit had expired.

The Sanctions imposed and reasons for them

No further submissions on sanctions were made by Mrs Brown.

After considering the Investigating Officer's report and the guidance issued by Standard for England the Committee decided to impose a suspension of a period not exceeding 2 months, effective from 10th February 2010 to 9th April 2010, provided that the suspension cease to take effect prior to 9th April upon receipt of a suitable letter of apology from Councillor Carter as approved by the Chair of the Committee in consultation with the Monitoring Officer.

The Committee specified that the letter of apology should be directed to the Committee with the Parish Council to be copied in, and that in the letter Councillor Carter recognise and apologise for his failure to comply with the Code of Conduct.

In considering the penalty the Committee had regard to the following:-

- That members of the public are entitled to transparency and accuracy with respect to Members' interests.
- That failing to complete a Register of Interests form is a significant breach of the Code of Conduct.
- The delay in time between Councillor Carter being made aware of the need to file a form in July 2008 and the eventual receipt of the form in February 2009 and the number of reminders that were sent to him during that period.
- That there were no mitigating circumstances raised by Councillor Carter to explain his actions (as he had neither taken part in the investigation or attended the final hearing).
- The Committee noted that since the investigation had been concluded Councillor Carter had received training on the Code of Conduct from the Monitoring Officer including completion of Register of Interests forms. This consisted of a training session that had taken place with all the members of the Parish Council on 28th January 2010.
- The Committee noted that the Investigating Officer's report recognised the active role of Councillor Carter in the work of the Parish Council including his participation in committees.

Details of legal advice

That under Regulation 19 of the Standards (England) Committee Regulations 2008 any one or any combination of available sanctions may be imposed.

That when considering the guidance members of the Committee needed to bear in mind the need for any sanction to be reasonable and proportionate taking into account the nature and seriousness of the breach and the functions of Parish Councils.

Recommendations to the authority

No recommendations were 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: