

Local Standards Hearing Panel Minutes

Date: Thursday, 22nd September, 2011

Time: 2.30 - 4.40 pm

PRESENT:

Parish Councillor D Banfield, Revd G Hargrove and District Councillor Ms J D Wassell

Also Present:

- Mr J Osman Investigating Officer, Messrs Wansbroughs
- The Subject Member

7 APPOINTMENT OF CHAIRMAN

RESOLVED: That Revd G Hargrove be appointed Chairman of the Meeting.

Revd Hargrove in the Chair

8 APOLOGIES FOR ABSENCE

There were no apologies for absence.

9 DECLARATION OF INTEREST

There were no declarations of interest.

10 QUORUM

The Chairman confirmed that the meeting was quorate.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That pursuant to Section 100B(2) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of minute 11 because of its reference to matters which contain exempt information as defined as follows:

Minute No 11 – Outcome of Referral of Case IA50 for ‘Other Action’.

Information presented to a Sub-Committee of a Standards Committee set up to consider any matter

under Regulations 16 to 30 of The Standards Committee (England) Regulations 2008. (Paragraph 7(c) of Part 1 of Schedule 12A to the Local Government Act 1972).

It was considered that the public interest in maintaining the exemption outweighed the public interest in disclosing the information as the distress that might be caused to the individuals concerned outweighed the public interest in disclosure.

11 OUTCOME OF REFERRAL OF CASE IA50 FOR 'OTHER ACTION'

On 27 June 2011, the Complaints Initial Assessment Sub Committee considered complaint ref: IA 50.

The sub committee referred the allegation to the Monitoring Officer for “other action” namely with a view to arranging for the subject member to attend a brief training session, to be arranged by the Monitoring Officer on the Code of Conduct for Members.

Members noted that a referral for other action closes any opportunity for investigation.

Additionally, Members noted that any such referral does not involve any finding as to whether or not the subject member had failed to comply with the Code of Conduct as alleged.

The Monitoring Officer presented the training personally and he took the subject Member through the entire Code, insofar as it applied to the Parish Council concerned. He also referred to Standards for England’s Case Review 2010, which provided useful guidance. The training session was held on 6 July 2011. The notes prepared by the Monitoring Officer and provided to the subject member were attached to the agenda for the Members information.

The session was well received by the subject member who found the training very useful.

In response to the report to this meeting the Panel:

RESOLVED: to express satisfaction with the action taken and that the Monitoring Officer give notice of this to the subject member, the complainant and the Clerk of the Parish Council concerned.

12 DETERMINATION OF ALLEGATIONS AGAINST A COUNCILLOR (CASE REF:IA 34)

The Chairman received confirmation from all present that they were aware of the procedure which the Panel would be following in determining the matter.

After consulting the subject member, the investigating officer and the monitoring officer, all of whom were present, the Panel agreed to exclude the Press and Public from its consideration of this matter as it appeared likely that exempt information would be disclosed in the course of its consideration.

RESOLVED: That pursuant to Section 100B(2) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of minute 12 because of its reference to matters which contain exempt information as defined as follows:

Minute No 12 – Determination of Allegations against a Councillor (Case Ref IA34).

Information presented to a Sub-Committee of a Standards Committee set up to consider any matter under Regulations 13 or 16 to 30 of The Standards Committee (England) Regulations 2008. (Paragraph 7(c) of Part 1 of Schedule 12A to the Local Government Act 1972).

It was considered that the public interest in maintaining the exemption outweighed the public interest in disclosure given that relations between the public and the Parish Council had settled down since the events in question and that publicity might have a detrimental effect on such relations.

The Chairman received confirmation from the Subject Member that he maintained the position as set out in the Pre-Hearing Summary report, in that he did not agree with the Investigating Officers' assertion that he had breached Section 3(1) of the Members Code of Conduct in that he did not believe that he was acting in an official capacity at the time of the alleged incident.

Following this, the Monitoring Officer then presented his Pre-Hearing Summary Report, again focussing the Panel's attention on the matter of whether or not the Subject Member was or was not acting in an official capacity.

The Investigating Officer then took the Panel through his report, confirming that the he believed that the Subject Member had not breached the other two sections of the Code of Conduct which may have been relevant to the complaint, namely paragraphs 3(ii)(b) (bullying) and 5 (bringing a member's office or authority into disrepute).

In respect of section 3(i) (failing to treat others with respect) the Investigating Officer considered the Subject Member to have breached the code, but added that there were mitigating factors to be taken into account in this matter.

The Investigating Officer then explained the history of conflict and communication issues leading up to the alleged incident along with the events of the day concerned. He also stressed the mitigating circumstances in this case and stated his reasons for concluding that the subject member was acting in an official capacity at the time.

Panel Members viewed the short DVD of the incident which clarified points made in the Investigating Officers report.

The Subject Member then had the opportunity, which was taken, to ask a number of questions of the Investigating Officer. Similarly Panel Members took the opportunity to question the Subject Member on the incident.

The Panel then retired to consider the matter.

Upon returning to the Committee Room the Chairman indicated that the panel felt that a breach of Section 3(1) of the Members Code of Conduct had occurred.

The Panel also felt that it wished to make a recommendation to the Parish Council that

- (i) their meeting procedures should be reviewed to make it clearer when the formal meetings are in progress and when they are suspended, closed or reopened; and
- (ii) they address (e.g. through a risk assessment and action plan) the issues, including health and safety issues, that might arise when a number of members of the public are present at meetings in a comparatively confined space.”

The Panel then invited the Investigating Officer to give his opinion as to whether the Panel should now impose a sanction, and if so what would be the appropriate sanction.

The Panel then retired again to consider whether or not a sanction should be imposed.

Upon returning again to the Committee Room the Panel confirmed to all present that it did not feel a sanction in this case was appropriate. A copy of the Summary Notice of this finding (with reasons) was then circulated to all present.

RESOLVED: That in respect of Investigation IA 34 the subject member had failed to comply with paragraph 3(1) of the Code of Conduct for Members of the authority concerned but that no action needed to be taken in respect of the matters which were considered at the hearing.

The Chairman thanked all present for their patience in respect of the hearing which had been completed in a polite and businesslike fashion.

The following officers were in attendance at the meeting:

- David Dongray - District Solicitor / Monitoring Officer
- Peter Druce - Democratic Services

This page is intentionally left blank