

STANDARDS COMMITTEE (SPECIAL)

17th November 2009

PRESENT:-

District Council Members

Councillor Mrs. Mead (Labour Group) and Councillor Murray (Conservative Group).

Parish Members

Mr. R. Buxton (Hatton) and Mr. K. Fairbrother (Castle Gresley).

Independent Members

Mr. D.R. Williams (Chairman), Mr. R. Pearson and Mrs. K. St. Clair.

APOLOGIES

Apologies for absence from the Meeting were received from District Councillor Harrison, Mr. K. Overton (Willington Parish Council) and Mr. P. Dawn (Vice-Chairman) and Mr. P.B. Purnell (Independent Members).

DECLARATIONS OF INTEREST

Mr. P. Dawn, Mr. K. Overton and Councillor Harrison had tendered their apologies, as they had previously declared interests in the subject item, due to apparent pre-determination of the matter as members of the Standards Sub-Committee (Consideration) on 10th June 2009.

MATTER DELEGATED TO COMMITTEE

SC/32. **CONSIDERATION OF PROCEDURAL ASPECTS INTO AN ALLEGED BREACH OF THE MEMBERS' CODE OF CONDUCT**

Following the withdrawal of the Exempt report on this matter at the previous Meeting on 19th October 2009, the Committee now considered an Open report, as requested at that Meeting.

On 13th August 2009, a Standards Sub-Committee (Hearing) was informed that a finding made by the Standards Sub-Committee (Consideration) on 10th June 2009 was not one it was entitled to make under the Standards Committee (England) Regulations 2008. Accordingly, it was resolved to decline to consider a complaint that had been placed before it for determination for lack of jurisdiction and the Standards Sub-Committee (Hearing) referred it to this Committee to determine how the matter could be progressed.

The Committee now considered any steps which could be taken to resolve this outstanding complaint. It was noted that there was no provision in the Local Government Act 2000 or the Standards Committee (England) Regulations 2008 ("the Regulations"), expressly providing for this situation.

Despite the fact that the legislation did not provide for a redetermination in these circumstances, if the Committee was minded to refer the matter back to the Standards Sub-Committee (Consideration) on the basis that its previous decision on the allegation was one that it was not entitled to make and it should reconsider the matter on a correct view of the requirements of Regulation 17, then the Determination Hearing would take place significantly outside the time limit provisions of Regulation 18.

Any decision subsequently made by the Determination Hearing would be open to a judicial challenge on the basis that there had not been substantial compliance with the time limit provisions of Regulation 18, which stated that a hearing of the Standards Committee was to be held within three months of the Investigating Officer's report being completed and if not, as soon as reasonably practicable thereafter. The Investigating Officer's report was completed on 12th May 2009. Additionally, there may also be a challenge of apparent bias or predetermination, given that the Minute of the Standards Sub-Committee (Consideration) on 10th June 2009 was received by Full Council and the Standards Committee had received a summary report of the matters dealt with and a copy of the Decision Notice. For these reasons, it was recommended that no further action be taken in relation to the complaint.

RESOLVED:-

- (1) That the Committee takes no further action for the reasons set out in the report, makes no findings of fact in respect of the complaint allegation and now considers that this matter is concluded.***
- (2) That the Monitoring Officer issues an apology to the complainant, the wording of which be agreed with the Chairman of the Standards Committee.***
- (3) That the Monitoring Officer issues an apology to the subject Member as follows:-***

“The Minutes and Decision Notice of the Standards Sub-Committee (Consideration) Meeting on 10th June 2009, reported to South Derbyshire District Council, stated that the Sub-Committee accepted that there had been a failure to comply with paragraph 3.1 of the Code of Conduct by the subject Member.

Since there had been no hearing into the complaint against the subject Member, the Sub-Committee could not, within the powers given to it by statute, have reached such a decision.

The Standards Committee retracts this statement unreservedly.

The Standards Committee wishes to apologise to the subject Member for:-

- 1. the statement that the subject Member had breached the Code of Conduct for Members;***

- 2. any damage this may have caused to the subject Member's reputation; and**
- 3. any stress and anxiety that may have been caused to the subject Member."**

D.R. WILLIAMS

CHAIRMAN

The Meeting terminated at 6.05 p.m.