

City of Bradford Metropolitan District Council

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Minutes of a meeting of the Determination Sub-Committee of the Standards Committee held on Thursday 28 July and Wednesday 23 November 2011 at City Hall, Bradford

Commenced 0945	}	
Adjourned 1000	}	28/07/11
Reconvened 0930	}	
Adjourned 0050	}	
Reconvened 1000	}	
Adjourned 1025	}	
Reconvened 1100	}	23/11/11
Adjourned 1110	}	
Reconvened 1140	}	
Adjourned 1145	}	
Reconvened 1230	}	
Concluded 1240	}	

PRESENT (on both dates)

Mr G Dobson – independent member
Councillor G Reid – district councillor
Councillor G Mitchell – parish councillor

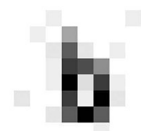
Mr Dobson in the Chair

1. DISCLOSURES OF INTEREST

No disclosures of interest in matters under consideration were received.

2. INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.



Suzan Hemingway - City Solicitor

3. COMPLAINT IN RESPECT OF A PARISH COUNCILLOR

On 28 July 2011 the Sub-Committee considered a report of the Monitoring Officer in respect of a complaint regarding a parish councillor and an alleged failure to disclose a personal interest in a planning application at a meeting of Ilkley parish council. (**Document "A"**).

The Sub-Committee was advised that the subject member had requested an adjournment as he was unable to attend the meeting and, after taking advice from the Monitoring Officer, it was:-

Resolved –

- (1) That the meeting be adjourned to a future date to allow the subject member to attend but that the subject member be advised that, once reconvened to a suitable date, the meeting will take place in his absence if necessary.**
- (2) That, having already undertaken individual site visits, there is no necessity for a further site visit.**
- (3) That the subject member be requested to meet with the Investigating Officer to establish which matters of fact can be agreed in advance of the meeting being reconvened.**

In accordance with the above resolution, the meeting reconvened on 23 November 2011. It was noted that the subject member was not in attendance and had not provided a reason why he was unable to be there.

The Sub-Committee considered the issue of further adjournment and members agreed there was no reason to do so. Accordingly, the meeting continued.

The Monitoring Officer advised that she considered that the meeting should take place in public, in line with the guidance from Standards for England. She made no recommendation to release the information contained in the Not for Publication appendices to Document "A".

Members agreed to continue the meeting in public and moved to consideration of the findings of fact in respect of the circumstances leading up to the complaint. The Investigating Officer advised that, although he had been unable to agree his précis of findings of fact set out in not for publication appendix 3 with the subject member, he did not consider them to be a matter of dispute.

Following an adjournment to consider the findings of fact, it was agreed that they should be accepted.

The Sub-Committee then went on to consider whether the matter complained of represented a breach of the Code of Conduct.

The Investigating Officer made representations in respect of that issue, considering that the subject member did have a personal interest in the matter being discussed and that he should have disclosed it at the meeting.

Members queried whether the Investigating Officer considered the interest also to be prejudicial and were advised that he considered the matter to be too speculative for him to give an opinion.

Advice was sought from the Monitoring Officer who noted that when a member had a personal interest in a matter under discussion and that matter related to regulatory issues where a decision was to be made, the issue of whether that interest was also a prejudicial interest should be considered by the member making the declaration of a personal interest. Members were advised of the provisions of the Code of Conduct relating to prejudicial interests and the guidance from Standards for England.

The Sub-Committee adjourned to consider the views of both the Investigating Officer and the Monitoring Officer and, upon reconvening, announced that it was considered that there had been a breach of the Code of Conduct involving both a personal and a prejudicial interest.

Having made this decision, the Sub-Committee then went on to consider the issue of sanction and asked the views of the Investigating Officer who spoke in mitigation, noting that he did not consider the breach to have arisen from ill-intent and considering that there could be a requirement for training.

The Sub-Committee then adjourned to consider sanction and any recommendations to be made to the parish council concerned.

The Sub-Committee reconvened to announce its final decisions, where it was stated that:-

This decision has been made in respect of the complaint set out in Determination Sub-Committee Document "A" concerning paragraphs 9 and 12 of the Ilkley Parish Council Code of Conduct, in accordance with resolution (1) of the meeting of this Sub-Committee held on 28 July 2011 which was subsequently adjourned and has now reconvened in the absence of Councillor McKie, no reason having been provided for further adjournment and having considered the documentary evidence provided by the investigating officer and representations made by him.

The Sub-Committee has agreed the investigator's précis of facts set out in Not for Publication appendix 3 to Document "A" as its findings of fact and has therefore

Resolved –

- (1) That having considered the size of the development and its proximity to Councillor McKie's property, it was likely to affect his wellbeing and he therefore had a personal interest which should have been disclosed; failure to disclose a personal interest is a breach of paragraph 9 of the Ilkley Parish Council Code of Conduct.**
- (2) That the interest should also have been regarded as prejudicial because the development was sufficiently close to Councillor McKie's property, large scale, controversial and high profile that it was reasonable for a member of the public in possession of the facts to consider that Councillor McKie's personal interest was so significant that it is likely to affect his ability to judge what was in the wider public interest; Councillor McKie failed to disclose this prejudicial interest, took part in the meeting concerned and voted on the relevant item this constitutes a breach of paragraph 12 of the Ilkley Parish Council Code of Conduct.**

- (3) That in the light of resolutions (1) and (2) above Councillor McKie be suspended from the position of Chair of the Plans Committee at Ilkley Parish Council for a period of three months from notification of this decision or until such time as he has undertaken one to one training with the Monitoring Officer on the issue of disclosure of interest.
- (4) That the reason for the above sanction is that the Determination Sub-Committee is concerned that as Chair of the Plans Committee it is important to ensure that Councillor McKie understands the specific provisions of the Code relating to disclosure of interest.
- (5) That the Clerk to Ilkley Parish Council be recommended to investigate with the National Association of Local Councils the availability of training for all members of the Parish Council on the Code of Conduct post implementation of the Localism Act.
- (6) That the reason for the above recommendation is to ensure that all members of Ilkley Parish Council are aware of the requirements of their Code of Conduct.
- (7) That it be noted that Councillor McKie may apply in writing to the President of the Adjudication Panel for permission to appeal against the above findings, such application must be received within 21 days of notification of the decision.

ACTION: City Solicitor

Chair

Note: These minutes are subject to approval as a correct record at the next meeting of the Committee.

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THESE MINUTES HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER