

## Report of the City Solicitor to the meeting of the Determination Sub-Committee to be held on 28 July 2011.

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**Subject: Determination of a Complaint in Respect of the Conduct of a  
Parish Councillor**

#### **Summary statement:**

The Sub-Committee is asked to consider the information set out in this report and make a determination in respect of a complaint made about the conduct of a parish councillor.

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City of  
**BRADFORD**  
METROPOLITAN DISTRICT COUNCIL

Suzan Hemingway, City Solicitor

## **1. BACKGROUND**

- 1.1 On 31 March 2010 the Assessment Sub-Committee of the Standards Committee considered a complaint in respect of the conduct of a parish councillor and resolved that there was a potential breach of the Code of Conduct and therefore the allegation should be referred to the Monitoring Officer for investigation.
- 1.2 The final report of the Investigating Officer was subsequently considered by the Consideration Sub-Committee on 10<sup>th</sup> February 2011 which then resolved as follows:-
- (1) That the finding of the Monitoring Officer that there has been a failure to comply with the Code of Conduct by the subject member be accepted.
  - (2) That a Determination Sub-Committee be established as soon as possible to consider the matter further and to consider the issue of prejudicial interest.
- 1.3 Accordingly, a meeting of the Determination Sub-Committee has been called to examine the matters set out in (2) above and Appendix 1 to this report sets out the procedure which the Sub-Committee will use to do so.

## **2. OTHER CONSIDERATIONS**

- 2.1 When considering this matter, the Determination Sub-Committee must decide whether any of the information set out in the not for publication appendices listed at paragraph 10 should remain as exempt information or whether it should be made publicly available following the meeting.
- 2.2 The Sub-Committee should have regard to Regulation 20(2) of the Standards Committee (England) Regulations 2008 which allows a subject member to prohibit the publication of the findings of the Sub-Committee in a local newspaper or on the Council's website as long as the finding is that there has not been a breach of the relevant Code of Conduct.
- 2.3 If, therefore, the Sub-Committee decides not to exclude the public from the meeting and publishes the information in the appendices having decided that there has been no breach of the Code of Conduct, it will be overriding the subject member's right to choose whether to prohibit publication.

## **3. FINANCIAL & RESOURCE APPRAISAL**

There are no financial or resource implications arising out of the recommendations in this report.

## **4. RISK MANAGEMENT**

Any risks identified as a result of the determination of this complaint shall be reported to the main Standards Committee for further consideration.

## **5. LEGAL APPRAISAL**

- 5.1 The meeting must be carried out in accordance with the Standards Committee

(England) Regulations 2008 and the Sub-Committee must have regard to the guidance provided by Standards for England in relation to determinations

## **9. OTHER IMPLICATIONS**

### **9.1 EQUALITY & DIVERSITY**

Not applicable

### **9.2 SUSTAINABILITY IMPLICATIONS**

Not applicable

### **9.3 GREENHOUSE GAS EMISSIONS IMPACTS**

Not applicable

### **9.4 COMMUNITY SAFETY IMPLICATIONS**

Not applicable

### **9.5 HUMAN RIGHTS ACT**

The procedures which govern the determination of complaints are set down by Standards for England and are to ensure compliance with Human Rights legislation..

### **9.6 TRADE UNION**

Not applicable

### **9.7 WARD IMPLICATIONS**

None

## **10. NOT FOR PUBLICATION DOCUMENTS**

The appendices listed below have been classed as containing exempt information within Paragraphs 1 (Information relating to an individual) and 2 (information identifying an individual) of Schedule 12A of the Local Government Act 1972 (as amended).

Appendix 2 – pre hearing process summary

Appendix 3 – Investigators report

Appendix 3 – Investigator's précis of agreed facts

Appendix 4 – witness statements )

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may not be needed

Appendix 5 – additional evidence )

## **11. RECOMMENDATIONS**

**Recommended -**

- 11.1 That any preliminary procedural issues be decided**
- 11.2 That findings of fact are made about issues which are/are not agreed**
- 11.3 That a decision be made on whether there has been a breach of the Code of Conduct, and if so, what sanction if any should be imposed**
- 11.4 That a decision be made on any recommendation to be made to the relevant Authority as a result of the case, with a view to promoting high standards of conduct among Members.**

**12. APPENDICES**

Appendix 1 – Procedure Note

Appendix 2 – pre hearing process summary – NOT FOR PUBLICATION

Appendix 3 – Investigators report – NOT FOR PUBLICATION

Appendix 3 – Investigator’s précis of agreed facts – NOT FOR PUBLICATION

Appendix 4 – witness statements – NOT FOR PUBLICATION

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Appendix 5 – additional evidence – NOT FOR PUBLICATION

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) may not be needed

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**13. BACKGROUND DOCUMENTS**

Standards Committee (England) Regulations 2008

“Standards Committee Determinations” Standards for England

Standards Committee

Determination Sub-Committee

Hearing Procedure

1. Setting the Scene

- Introduction of all parties by the Chair of the Sub-Committee
- Consideration of exclusion of the public during the hearing
- Consideration of public inspection of reports presented to the hearing

2. Preliminary Procedural Issues

- Whether witnesses will be heard and, if so, what information will be considered
- Whether additional information provided by the subject member will be heard
- Representations on any other issues not resolved during the pre-hearing process

*Sub-Committee will adjourn, if necessary, to consider representations*

*Sub-Committee will reconvene to announce its decisions*

3. Findings of Fact

- To consider findings of fact which are agreed
- To consider findings of fact which are not agreed

*Sub-Committee will adjourn to consider findings of fact*

*Sub-Committee will reconvene to announce its decisions*

4. Did the Subject Member Breach the Code of Conduct ?

- To decide whether there has been a breach of the Code of Conduct
- Representations from the Investigating Officer (and any witnesses)
- Questions by the Subject Member
- Questions by the Panel
- Representations from the Subject Member (and any witnesses)
- Questions by the Investigating Officer
- Questions by the Panel

*Sub-Committee will adjourn to consider the question of breach of the Code of Conduct*

*Sub-Committee will reconvene to announce its decisions*

## 5. Decision to Apply Sanction

- Any additional views/information that the Investigating Officer wishes to present before the Sub-Committee considers the application of a sanction
- Any additional views/information that the Investigating Officer wishes to present before the Sub-Committee considers the application of a sanction
- Questions by the Sub-Committee

*Sub-Committee will adjourn to consider the question of sanction  
Sub-Committee will reconvene to announce its decisions*

## 6. Recommendations to the Authority

- The Panel will announce any recommendations which it wishes to make to the Authority which the Member serves as a result of the case

## 7. Announcement of Decision

- The Chair will announce the decision in full to the meeting.