Wiltshire Council
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STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 10 JANUARY 2017 AT THE WEST WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:
Cllr Peter Evans, Mr Philip Gill MBE JP, Cllr Bob Jones MBE and Cllr Horace Prickett

Also Present:
Trevor Bedeman (Complainant), Sue Kershaw (supporting Complainant), Paul Taylor (Senior Solicitor), Caroline Baynes (Independent Person) and Kieran Elliott (Senior Democratic Services Officer)

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1 **Election of Chairman**

Resolved:

To elect Councillor Horace Prickett as Chairman for this meeting only.

2 **Declarations of Interest**

There were no declarations.

3 **Meeting Procedure and Assessment Criteria**

The procedure and assessment criteria for the meeting were noted.

4 **Exclusion of the Public**

Resolved:
To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Minute No.5 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the item to the public.

Paragraph 1 – information relating to an individual

5 **Review of an Assessment Decision: Reference WC-ENQ00180**

The Sub-Committee considered a complaint against Councillor Magnus Macdonald, a member of Wiltshire Council. The complaint involved a confrontation between the complainant and subject member outside a meeting

of Bradford on Avon Area Board with the subject member allegedly breaching paragraphs 1 and 4 of the relevant Code of Conduct, as well as the requirement to uphold high standards of conduct and the principles of public life as set out in the Code.

The Chairman led the Sub-Committee through the local assessment criteria which detailed the initial tests that should be satisfied before assessment of a complaint was commenced.

Upon going through the initial tests, it was agreed that the complaint related to the conduct of a member and that the member was in office at the time of the alleged incident and remains a member of Wiltshire Council. A copy of the appropriate Code of Conduct was also supplied for the assessment. The Sub-Committee agreed with the reasoning of the Deputy Monitoring Officer in his initial assessment that in discussing the forthcoming meeting while outside the venue on the way into that meeting, the subject member could be considered as acting in their capacity as a member and therefore subject to the Code.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. Further, if it was felt it would be a breach, was it appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the complaint, the response of the subject member, the initial assessment of the Deputy Monitoring Officer to take no further action and the complainant's request for a review. The Sub-Committee also considered the verbal representation made at the meeting by the complainant.

The allegation was that the subject member had behaved inappropriately prior to a meeting of Bradford on Avon Area Board through intimidating and insulting actions, to the extent of breaching the Code of Conduct under the provisions listed above.

Paragraph 1 of the Code states '*You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate'*.

Paragraph 4 of the Code states '*You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office'*.

The Sub-Committee noted both provisions related to decision making by elected representatives, and as no decisions were taken by the subject member during the alleged incident, the behaviours, if proven, could not amount to a breach of the Code under those provisions.

The Sub-Committee therefore considered whether the alleged behaviour and actions of the subject member, if proven, breached the requirement to promote

and support high standards of conduct and the need to have regard to the principles as set out in the Code.

It was clear that, if proven, the alleged behaviour would be both impolite and unwise for an elected member. No specific provisions in the Code related to disrespectful or bullying behaviour, however such behaviour was mentioned in the Guidance on the Code of Conduct as an example of behaviour that, in appropriate circumstances, could be considered to be not supporting high standards of conduct or having sufficient regard to the principles listed. The question, therefore, was whether allegedly rude and insulting behaviour as set out in the incident that was the subject of the complaint, was of such a level as to breach those provisions.

The need to promote and support high standards of conduct in the Code was not intended to stand in the way of lively debate. It was clear from the papers submitted that various parties felt strongly about issues in the town and how they might be discussed at the area board, where the subject member is Chairman. It was also noted the issue had been aggravated by procedural concerns which had been the subject of a separate, corporate complaint. The Sub-Committee considered, on the basis of the evidence as submitted, that while the alleged actions, if proven, may have been impolite or insulting, it had not risen to the level of an excessive attack on an individual which would justify an impediment to debate, even if that debate may have become unpleasant in this instance.

Similarly, the Sub-Committee considered that the complaint related to a single incident, noting that the issue which had provoked the alleged confrontation was later discussed at the meeting in question without incident, and that therefore there was inadequate grounds to consider that high standards of conduct had been sufficiently undermined by the isolated incident that was the subject of the complaint so as to constitute a breach.

The Sub-Committee therefore agreed with the reasoning of the Deputy Monitoring Officer that even though the alleged behaviour, if proven, would not reflect well on the subject member, it did not rise to the level of a breach under the Code of Conduct, and therefore it was not in the public interest to refer the matter for investigation.

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee decided that no further action will be taken in respect of this complaint.

(Duration of meeting: 2.00 - 2.35 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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