

STANDARDS HEARING SUB-COMMITTEE

MINUTES OF THE STANDARDS HEARING SUB-COMMITTEE MEETING HELD ON 1 SEPTEMBER 2016 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Desna Allen, Cllr George Jeans, Cllr Paul Oatway QPM and Mr Philip Gill MBE JP (non-voting)

Also Present:

Caroline Baynes (Independent Person), Libby Beale (Senior Democratic Services Officer), Marie Lindsay (Investigating Officer), Stuart Middleton (Independent Person), Paul Taylor (Senior Solicitor), Kieran Elliott (Senior Democratic Services Officer), Mr Martin Davis (Head of Service) and Cllr Alan MacRae

1 Election of Chairman

Nominations for a Chairman of the Standards Hearing Sub-Committee were sought and it was,

Resolved:

To elect Councillor Desna Allen as Chairman for this meeting only.

2 Declarations of Interest

There were no declarations.

3 Meeting Procedure

The procedure to be followed for the meeting was noted.

4 Exclusion of the Press and Public

Resolved:

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 Item Number 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 I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Paragraph 1 - information relating to an individual

5 **Determination of Code of Conduct Complaint WC-ENQ00137 Regarding Councillor A MacRae, Wiltshire Council**

The Hearing Sub-Committee considered complaint WC-ENQ00137 submitted by Mrs Carolyn Godfrey, a Corporate Director of Wiltshire Council, against Councillor Alan MacRae of Wiltshire Council. It had been alleged that Councillor MacRae had breached the Wiltshire Council Code of Conduct as a result of disclosing confidential information obtained through his role as a councillor to an individual who was not entitled to that information.

Following an initial assessment decision by Mr Frank Cain, Deputy Monitoring Officer, the complaint had been referred for investigation. That investigation had concluded that by divulging confidential information gained specifically from his role at Wiltshire Council, Councillor MacRae had failed to abide by the Nolan Principles of Leadership as required by the Code of Conduct, and therefore failed to maintain high standards in public office and improperly conferred a disadvantage. The conclusion of the investigating officer's report was upheld by Mr Ian Gibbons, Monitoring Officer, and it had therefore be referred to the Hearing Sub-Committee for consideration and determination.

The Chairman welcomed all those present at the hearing and advised them of the procedure that was to be followed, as previously detailed during pre-hearing arrangements sent to all parties.

At the request of the Sub-Committee Mr Martin Davis, a Head of Service at Wiltshire Council attending on behalf of the complainant, then provided details on the requirements of confidentiality and potential implications of disclosure of confidential information in the circumstances of this case.

Mrs Marie Lindsay, Ethical Governance Officer and Investigating Officer, then presented her report to the Sub-Committee, which included details of the original complaint, supporting information, responses from and interviews with Councillor MacRae. The report detailed that the facts of the circumstances and nature of the disclosure of confidential information was not contested by Councillor MacRae, who had acknowledged his error in disclosing and cooperated fully with the investigation, and that his motivation for disclosing information was not in question.

The Sub-Committee then sought further details and clarity from the Investigating Officer.

Councillor MacRae was then given the opportunity to present his position to the Sub-Committee. He fully accepted that he had made a serious error in making the disclosure and apologised for doing so, noting that as a result he was no longer responsible for work at the council in the same area as at the time of disclosure, work he cared a great deal about.

The Parties were then given the opportunity to make concluding statements.

The Sub-Committee then withdrew at 13:30 with the Committee Lawyer, Democratic Services representatives and Mr Stuart Middleton, Independent Person supporting the Sub-Committee.

The Sub-Committee returned at 14:15 and detailed their decision.

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 Hearing Sub-Committee decided:

That Cllr MacRae's actions were in breach of the Wiltshire Council Code of Conduct by failing to maintain high standards in public office and that by his actions he improperly conferred a disadvantage and so failed to abide by the Nolan principles.

Accordingly, the Sub-Committee resolved:

- a) To recommend to Cllr MacRae's group leader (and Leader of the Council) that he not be reappointed to any committee or position of responsibility that involves receipt of confidential information regarding the service area of his disclosure of information.**
- b) That this recommendation be included in the minutes of the Standards Committee.**

Reason for Decision

The Hearing Sub-Committee considered the facts of the case as detailed in the Investigating Officer's Report, including the original complaint, response of the subject member and supporting information on the nature and extent of the alleged breach, as well as the statements of the Investigating Officer and Cllr MacRae at the Hearing.

The circumstances of the alleged breach had involved Cllr MacRae disclosing confidential material he had obtained through his position as a councillor to a party who was not entitled to the information. Both complainant and investigating officer had emphasized that there was no question as to Cllr MacRae's motives in that the disclosure had been an error of judgement, and that Cllr MacRae had accepted this and cooperated fully with the investigation.

As the facts were not disputed the Sub-Committee concluded that Cllr MacRae had disclosed confidential information, and they considered that this amounted to a breach of the Code of Conduct as detailed above.

When considering possible sanctions, the Sub-Committee had regard to the serious nature of the breach arising from disclosure of confidential material. Although Cllr MacRae's motivations were not in question and he had been

removed from the positions he had held at the time of breach, the nature of the disclosure had very serious implications that he should have been aware of as a result of his position.

The Sub-Committee therefore concluded that in addition to censure Cllr MacRae's group leader should be informed they were of the view he should not be reappointed to a similar committee or position where he might be in receipt of similar information.

The Sub-Committee also noted the wider implications for the council and its members regarding responsibilities with confidential information. They recommended to the Standards Committee that within 3 months of taking office, all councillors should be mandated to attend training specifically in respect of confidentiality requirements, with group leaders informed where this had not taken place, with the recommendation that no councillor should be appointed to any committee or position of responsibility without completing said training.

(Duration of meeting: 1.00 - 2.15 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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