

Wiltshire Council

Standards Committee

23 November 2011

Outcome of Standards Hearing Sub Committee - Case reference WC 45/09 and WC 43/09

Purpose of Report

1. To report the outcome of the Standards Hearing Sub-Committee held on 2 September 2011 to consider allegations of breaches of the Code of Conduct for Members.

Background

2. On 3 November 2009 the Monitoring Officer received a complaint from Mrs Elizabeth Conway concerning the alleged conduct of Councillor David Gardiner, formerly a member of Winsley Parish Council. On the 5 November 2009 the Monitoring Officer received a further complaint about Councillor Gardiner from Mr John Barnes. Both complaints related to substantially similar issues.
3. The complaints alleged that Councillor Gardiner's behaviour breached paragraphs 3(1), 3(2)(b), 5 and 6(a) of the Code of Conduct: -
 - 3(1)-treating others with respect
 - 3(2)You must not (b) - bully any person
 - 5- You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
 - 6(a) You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person an advantage or disadvantage.
4. The complaints were assessed by the Standards Assessment Sub-Committee on 2 December 2009. They decided to refer both complaints to the Monitoring Officer for investigation.
5. The Monitoring Officer delegated his investigatory powers to Mr Roger Wiltshire, Ethical Governance Officer, pursuant to section 82A of the Local Government Act 2000.

6. The investigator's final reports dated 6 June 2011 found in both cases that there had been a breach of paragraph 3(1), 3(2)(b) and 5 of the Code of Conduct.
7. With regard to the complaint by Mrs Conway the Investigating Officer also found that there had been a breach of paragraph 3 (2) (c) of the Code (the member had intimidated or attempted to intimidate a person who was or who was likely to be a complainant in relation to an allegation that the Code had been breached).
8. The Consideration Sub-Committee of the Standards Committee of Wiltshire Council met on 30th June 2011 to consider the Investigating Officer's report and findings. They accepted the finding of no breach of paragraph 6(a) of the Code and decided to refer the rest of the allegations to the Hearing Sub-Committee of the Standards Committee for determination.
9. The Hearing Sub-Committee met on the 2 September 2011 and considered both complaints. Their decisions are attached as appendices A and B.
10. The Chairman and members of the Sub-Committee may wish to comment on the hearing at the meeting.

Main considerations for the Committee.

11. This case was referred for investigation on 2 December 2009 and the final report was issued on 6 June 2011.
12. Councillor Gardiner complained to the Monitoring Officer about delays in completing the investigation. The Head of Governance wrote to Councillor Gardiner in response to his complaint on 21 July 2011. His complaint about the delay was upheld and an unreserved apology made.
13. The Standards Committee has since set a target time of 6 months from the Assessment Sub Committee's referral of a complaint for investigation to the completion of the investigation and issuing a final report. It is acknowledged that the delay in this case was unacceptable.
14. The final report was issued on 6 June 2011 and the Standards Hearing Sub Committee met on 2 September 2011. This was just inside the Standards Committee's target of three months from the issuing of the final report to the conclusion of a determination Sub Committee hearing.

Proposals

15. The Standards Committee is asked to note the outcome of this matter.

Ian Gibbons

Monitoring Officer

Report author:

Nina Wilton
Head of Governance and Deputy Monitoring Officer
