

## STANDARDS REVIEW SUB-COMMITTEE

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**MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 2 FEBRUARY 2017 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.**

**Present:**

Cllr Charles Howard, Cllr Allison Bucknell, Cllr Ernie Clark and Miss Pam Turner

**Also Present:**

Paul Taylor (Senior Solicitor), Kieran Elliott (Senior Democratic Services Officer), Ted Pomeroy, Kath Noble, Francis Morland, Anthony Doel and Colin Malcolm

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**6 Election of Chairman**

**Resolved:**

**To elect Councillor Ernie Clark as Chairman for this meeting only.**

**7 Declarations of Interest**

There were no declarations.

**8 Meeting Procedure and Assessment Criteria**

The procedure for the meeting was noted.

**9 Exclusion of the Public**

**Agreed 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 Number 10 onwards 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(s)*

**10 Review of Assessment Decisions: Reference WC-ENQ00185, WC-ENQ00186 and WC-ENQ00187**

A complaint had been submitted by Mr William Johnson against Councillor Anthony Doel, Kath Noble and Ted Pomeroy, members of Southwick Parish

Council. The allegation was that at a meeting of Southwick Parish Council the subject members, had withheld information from Wiltshire Council's planning department and as a result breached the code of conduct in not having regard to the principles of openness and honesty.

The initial assessment of the Monitoring Officer had been for there to be no further action in respect of the complaint.

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 Southwick Parish Council. A copy of the appropriate Code of Conduct was also supplied for the assessment.

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 representations made at the Review by the complainant, a representative for the subject member, and the other two subject members who were collectively subject to the same allegation.

The complaint related to behaviour of the subject members in relation to a meeting at which the parish council had resolved to respond, as statutory consultees to Wiltshire Council, with 'no comment' regarding a planning application within the parish. The complainant considered that the three members listed in the complaint had withheld information that was relevant to this planning application from Wiltshire Council and by so doing had not had regard to the principles of openness and honesty and thereby breached the parish council's code of conduct.

In assessing the complaint the Review Sub-Committee noted that the decision to respond in the fashion that it had was a collective decision taken by Southwick Parish Council. Information had been presented to the parish council and it had as a whole taken the view to respond in the manner described above. Parish Councils were required to be consulted for their views, but it was not the role of parish councils to relay any and all concerns or supportive comments to the Development Control service at Wiltshire Council. Individuals were entitled to submit their own comments and observations regarding any application to the relevant Planning Authority.

The complainant and others had objections to the planning application that had been considered by the parish council, and that planning application had since been approved by Wiltshire Council. They had raised concerns about alleged

breaches of planning control. The Review Sub-Committee noted that such breaches were a matter for Planning Enforcement, and again individuals were able to submit comments to the Planning Authority if they felt breaches had occurred.

Neither the Standards regime nor Wiltshire Council generally had responsibility for oversight of collective parish council decisions, nor could individual members of that council be held responsible for such a collective decision. The Code of Conduct applied to conduct of a member in their individual capacity, not in relation to the decision-making process of a parish council, including its role as a consultee on planning applications. Neither the parish council, nor its individual members, had any obligation to pass along comments or information from others to the Planning Authority, and it could not be a breach of the Code to fail to do so.

Therefore, the Review Sub-Committee were in agreement with the reasoning of the Deputy Monitoring Officer that the alleged behaviour of the subject members was not capable of breaching the Code of Conduct.

Additionally, it had been raised at the review whether the complaints had been submitted within time for consideration. Since they were of the view that none of the matters in the complaint were capable of breaching the Code of Conduct, the Review Sub-Committee did not consider it necessary to take a view on whether it had been submitted in a timely fashion. However, it was noted that the Standards Committee had on 26 January 2017 amended the Local Assessment Criteria to apply for future assessments to clarify:

*A complaint will not be referred for investigation when it is made more than 20 working days from the date upon which the complainant became, or ought reasonably to have become, aware of the matter giving rise to the complaint.*

*In any event, the Monitoring Officer may decide not to refer a complaint for investigation where, in his opinion, the length of time that has elapsed since the matter giving rise to the complaint means that it would not be in the interest of justice to proceed.*

### **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 these complaints.**

(Duration of meeting: 09:30 – 10:00 )

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