

## STANDARDS REVIEW SUB-COMMITTEE

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**MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 16 FEBRUARY 2017 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.**

**Present:**

Cllr Magnus Macdonald, Cllr Desna Allen and Cllr Peter Evans

**Also Present:**

Kieran Elliott (Senior Democratic Services Officer), Stuart Middleton (Independent Person), Paul Taylor (Senior Solicitor), Francis Morland, Anthony Doel, Bill Johnson.

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11 **Election of Chairman**

**Resolved:**

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

12 **Declarations of Interest**

There were no declarations.

13 **Meeting Procedure and Assessment Criteria**

The procedure and assessment criteria for the meeting were noted.

14 **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 Minutes 15-16 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*

15 **Review of an Assessment Decision: Reference WC-ENQ00162**

The Sub-Committee considered a review of an assessment decision regarding Councillor Anthony Doel of Southwick Parish Council. The initial assessment decision had been to refer the matter for investigation.

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 refer the matter for investigation and the subject member's request for a review. The Sub-Committee also considered the verbal representations made at the Review by the complainant and a representative on behalf of the subject member, as well as a brief written submission from that representative.

The complaint related to meetings of Southwick Parish Council where it was alleged the subject member had participated to some degree in discussions and/or decisions which affected land he owned, a disclosable pecuniary interest which it was alleged the subject member had also failed to declare or ensure was included on his register of interests.

The Sub-Committee took into account all the points raised, and were mindful that it was not the role of a Review Sub-Committee to determine whether allegations had been proven. Sufficient evidence had been provided to understand the substance of the complaint as required by paragraph 4 of the local assessment criteria, and at this stage the test was whether the matters giving rise to the complaint would, if proven, be capable of a breach of the relevant Code of Conduct and, if so, whether there were any other reasons the matter should not be referred for investigation to determine the facts.

A failure to properly register and/or declare a disclosable pecuniary interest was a significant and serious allegation. Both parties disputed issues of fact in relation to what had been declared, when and whether there had been active or other participation in the meetings in question and whether the alleged interest applied in the circumstances. There were also multiple concerns raised by the subject member by his representative in relation to procedural issues regarding

the complaints process. The Sub-Committee did not consider that a complaint submitted by email rather than on a particular complaints form, an administrative detail, could reasonably be dismissed in the absence of other justifying reasons, particularly in relation to such serious allegations. Nor did it see justification for otherwise declaring the complaint invalid as vexatious, malicious or politically motivated.

The Sub-Committee therefore were of the view that the allegations, if proven, would be a breach of the relevant Code of Conduct, and therefore it was necessary to refer the matter for investigation or other suitable action by the Monitoring Officer in order to determine whether or not a breach had indeed occurred.

It was noted in regard to procedural points that the Sub-Committee was required to review the initial assessment decision using the same procedure and criteria by which it had been assessed by the Deputy Monitoring Officer, those being the proper processes at the time of the complaint. This was of particular relevance in respect of whether the complaint had been submitted in a timely enough fashion by the complainant. Notwithstanding the representations made at the meeting that a complaints form hosted on the council's website at the time of the complaint stated complaints could not be made more than 20 days after an incident, the local assessment criteria in force at the time of the complaint and assessment held that the 20 day rule applied from when a complainant 'became aware' of the matters giving rise to a complaint. The Deputy Monitoring Officer, guided by the interpretation of a previous Review Sub-Committee, had therefore concluded following clarification with the complainant, that the complaint therefore was to be considered as having been made within the appropriate timescales as were in place at the time. The Sub-Committee was in agreement with the reasoning of the Deputy Monitoring Officer on this point and the explanation for the admittedly considerable delay in processing the complaint.

However, it was also noted that the Standards Committee had on 26 January 2017 amended the Local Assessment Criteria to apply for future complaints 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.*

At the conclusion of discussion, it was

**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 to refer the complaint for investigation or other suitable action by the Monitoring Officer.

16 **Review of an Assessment Decision: Reference WC-ENQ00190**

The Sub-Committee considered a review of an initial assessment regarding Councillor Anthony Doel of Southwick Parish Council. The initial assessment had been to refer the matter for investigation.

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 refer the matter for investigation and the subject member's request for a review. The Sub-Committee also considered the verbal representations made at the Review by representatives of both the complainant and the subject member, as well as a brief written submission from the representative of the subject member.

The complaint related to a particular meeting of Southwick Parish Council where it was alleged the subject member had actively participated in a vote on a grant which related to land which was owned by the subject member. It was also claimed that this represented a disclosable pecuniary interest which it was further alleged the subject member had not disclosed appropriately.

The Sub-Committee took into account all the points raised, and were mindful that it was not the role of a Review Sub-Committee to determine whether allegations had been proven. Sufficient evidence had been provided to understand the substance of the complaint as required by paragraph 4 of the local assessment criteria, and at this stage the test was whether the matters giving rise to the complaint would, if proven, be capable of a breach of the relevant Code of Conduct and, if so, whether there were any other reasons the matter should not be referred for investigation to determine the facts.

A failure to properly register and/or declare a disclosable pecuniary interest was a significant and serious allegation. Both parties disputed issues of fact in relation to what had been declared, when and whether there had been active or other participation in the meetings in question, and whether the alleged interest applied in the circumstances. There were also multiple concerns raised by the subject member by his representative in relation to procedural issues regarding the complaints process.

The Sub-Committee were of the view that the allegations, if proven, would be a breach of the relevant Code of Conduct, and therefore it was necessary to refer the matter for investigation or other suitable action by the Monitoring Officer in order to determine whether or not a breach had indeed occurred

The Sub-Committee also did not consider that a complaint submitted by email rather than on a particular complaints form, could reasonably be dismissed in the absence of other justifying reasons, particularly in relation to such potentially serious allegations.

**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 to refer the complaint for investigation or other suitable action by the Monitoring Officer.

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

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