



Leicester
City Council

Minutes of the Meeting of the
STANDARDS ADVISORY BOARD

Held: MONDAY, 14 OCTOBER 2013 at 5.30pm

P R E S E N T :

Mr Amanda Fitchett	Independent Member
Mr Desmond Henderson	Independent Member
Mr David Lindley	Independent Person
Councillor Shelton	
Councillor Waddington	

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1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Ms Joanne Holland due to illness.

2. MEMBERS NOT REQUIRED TO ATTEND

The Monitoring Officer reported that arrangements had been made with Councillor Sood and Ms C Roberts (Independent Person) not to attend the meeting as their attendance would not be required in order to meet the quorum requirements for the meeting.

Members were reminded that the quorum for the Board was three, with the majority or equal number of Independent Members. It had been known in advance of the meeting that there would only be a maximum of two independent members in attendance, and, therefore, arrangements had been made to ensure that no more than two Councillors attended. Also, there was only a requirement for the Independent Person involved in an investigation to be present. Ms Roberts was not, therefore, required to attend either.

3. APPOINTMENT OF CHAIR

RESOLVED:

that Ms Amanda Fitchett be appointed as Chair for the meeting.

Ms Fitchett in the Chair.

4. DECLARATIONS OF INTEREST

Members are asked to declare any interests they might have in the business on the agenda. No such declarations were made.

5. MINUTES OF PREVIOUS MEETING

RESOLVED:

the minutes of the meeting held on 10 January 2013 be confirmed as a correct record.

6. PRIVATE SESSION

RESOLVED:

“that the press and public be excluded during consideration of the following report in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it would involve the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

Paragraph 1

Information relating to any individual

Paragraph 2

Information which is likely to reveal the identity of an individual

Paragraph 7

The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

Paragraph 7A

Information which is subject to any obligation of confidentiality.

7. COMPLAINT AGAINST A COUNCILLOR: TO CONSIDER THE INVESTIGATOR'S FINDINGS

The Monitoring Officer submitted a report asking Members to consider the Investigator's report into complaint referenced 2013/03 and determine whether the Board agreed with the investigator's findings.

If the Board agreed with the findings, then no further action would follow.

If the Board did not agree with the findings, it could either:-

- a) determine that the matter be passed to the Monitoring Officer for informal resolution; or
- b) determine that the matter be referred to a hearing panel.

The Board noted that:-

- The option of 'no further action' could only flow from an investigator's own conclusion that no breach had occurred.
- The option of 'informal resolution' could only flow from the agreement of the Board that a breach warranted such resolution. If such resolution was not achievable then the matter should proceed to a hearing.
- If the matter was referred for hearing, then a hearing subcommittee would be convened to hear the evidence, make findings of fact and determine appropriate outcomes. The Hearings Panel is a subcommittee of the Council's Standards Committee. The Independent Person would be invited to attend all meetings of the Hearings Panel and their views sought and taken into consideration before the Hearings Panel took any decision on whether the Member's conduct constituted a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

The Monitoring Officer reported that an independent investigator had been appointed to carry out the investigation into the complaint after he and the Mr Lindley had reviewed the complaint and decided that the most appropriate course of action in respect of the complaint was to refer it for full investigation. The investigation had been completed on 11 July 2013.

The investigator had found that, on the balance of probabilities, the Councillor's conduct had not breached the Code of Conduct. The reasons for reaching this conclusion were set out in detail in the investigator's report.

The Monitoring Officer stated that once a complaint had been referred for investigation, the Standards Committee took ownership of the complaint and the complainant then had no part in the process, apart from being a witness in the investigation. The Board had not been convened to hear the complaint and/or determine whether a sanction should be applied, its purpose was to determine whether it agreed with the investigator's findings, or not.

The Monitoring Officer then introduced the independent investigating officer, and invited him to present his findings.

The investigating officer then presented his report in detail and explained the principles of the tests that needed to be applied to the findings to determine whether there had been a breach of the Code of Conduct. The investigation had been conducted at length with the complainant and the member concerned. A number of other individuals had also been interviewed in relation to the allegations that had been made. However, there were no direct witnesses to the allegations which had presented difficulties to the investigation. Whilst both the complainant and the member had each been credible witnesses there was no direct observational evidence to substantiate the allegations. The investigator had, therefore, found on the balance of probabilities, that that the member had not breached the Code of Conduct.

Board Members discussed the findings and asked questions of the investigator to clarify some points.

Members thanked the investigator for undertaking what had proved to be a difficult and protracted investigation and for the thorough, fair and honest appraisal of the findings.

Mr David Lindley, as the Independent Person advising the Board, read out a statement commenting upon the investigating officer's findings. He concurred with the difficulties faced in conducting the investigation and expressed his views on each element of the allegations and the finding of the investigating officer on each one, together with the supporting evidence and conclusions in the investigating officer's report. He felt that there were some weaknesses in the claims by the complainant, and whilst these did not rule out the possibility of the truthfulness of the claims, there was insufficient and compelling evidence, in his view, to refer the complaint to a formal hearing. Mr Lindley also suggested that there was an urgent need to establish clarity in the role of councillors and how the council's resources could be used.

The Board Members discussed the findings of each element of the complaint and agreed with the investigator's findings that on the balance of probability agreed that there was insufficient evidence to conclude that there had been a breach of the Code of Conduct.

RESOLVED:

- 1) that the findings of the Investigating Officer as stated in paragraph 6.1 of the report that, on the balance of probabilities, there has not been a breach of the Council's Code of Conduct be endorsed ,and, that no further formal action be taken in relation to the complaint as a consequence;
- 2) that the Monitoring Officer write to the Director of Communications Delivery and Political Governance to suggest that the role of members and Council staff should be clearly clarified, especially regarding the different expectations and pressures placed upon administrative staff who directly support the most senior politicians and officers;

- 3) that the Monitoring Officer write to the subject member and the complainant to inform them of the outcome of the complaint and the Board's views; and
- 4) that the investigator's report should not be made public as it was felt that it would not be appropriate as no further formal action is required.

8. CLOSE OF MEETING

The Chair declared the meeting closed at 6.35 pm.