



Leicester
City Council

Decision Notice and Minutes of the Meeting of the
STANDARDS HEARING SUB-COMMITTEE

Held: TUESDAY, 8 MARCH 2011 at 5.00pm

MEMBERS OF THE SUB-COMITTEE

Sheila Brucciani (Independent Member) – Chair

Councillor Keeling

Councillor Thomas

IN ATTENDANCE

Diane Baker – Investigator
Frances Randle – Solicitor for Subject Members
Councillor Mohammed Dawood – Subject Member
Councillor Abdul Osman – Subject Member
Ahmed Ahmed – Witness for Subject Members
Rabiya Ka Rani – Witness for Subject Members
Salim Manghera – Witness for Subject Members
Anthony Cross – Head of Litigation (for Monitoring Officer)
Heather Kent – Democratic Services Officer

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1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

Members were asked to declare any interests they may have in the business on the agenda and/or declare if Section 106 of the Local Government Finance Act 1992 applied to them.

Councillor Thomas declared for the avoidance of doubt that he was Chair of Labour Leicester East, Chair of the Labour Group, Chair of the Licensing Committee, and Agent and friend of the Rt Hon Keith Vaz MP. He also declared, in respect of an email that had come into the possession of the Monitoring Officer alleging impartiality, that he had taken no instruction on the matter being considered from anyone, and the only instruction he would ever

take related to the Party Whip on issues of policy, and never on Regulatory or Standards matters.

Councillor Keeling declared for the avoidance of doubt that he was the Liberal Democrat Chief Whip.

3. HEARING PROCEDURE

The Monitoring Officer submitted the procedure to be followed during hearings of an investigator's reports regarding complaints against councillors.

RESOLVED:

That the Hearing Procedure be noted.

4. PRIVATE SESSION

Members were asked to consider whether the hearing should take place in private on the grounds that the report contained 'exempt' information as defined in Paragraphs 1 and 7c of Part 1 of Schedule 12A of the Local Government Act 1972 as amended, and taking into consideration whether the public interest in maintaining the exemption outweighed the public interest in disclosing it.

Members heard from both parties and received advice from the Head of Litigation. They then retired to deliberate in private. Upon their return they resolved as follows:

RESOLVED:

That the hearing continue in public as the public interest in disclosing the information outweighs the public interest in maintaining the exemption.

5. HEARING OF INVESTIGATOR'S REPORT INTO A COMPLAINT AGAINST COUNCILLORS, COMPLAINT NUMBER 2010/2

The Monitoring Officer submitted a report which included the full Investigator's report, supporting documentation and responses from the Investigator and the Subject Members' solicitor with regard to the prehearing process and in particular details of disputes over the Investigator's findings of fact.

The Standards Hearing Sub-Committee followed the hearing procedure and heard submissions from the Investigator and the Members' Solicitor, together with evidence called on behalf of the Subject Members, Councillors Mohammed Dawood and Abdul Osman, with regard to the Investigator's finding that the Council's Code of Conduct had been breached by them.

Summary of complaint

The alleged incident related to the alleged conduct of Councillors Dawood and Osman whilst at the Coronary Care Unit of Leicester Royal Infirmary on 2 April 2010. The Councillors had been taken to the Unit by a family member of a patient who had died the previous day. The family wanted to take the body away for burial. Mrs Wheeler, a nurse, alleged that both Councillors were threatening and intimidating, and disturbing the ward and patients.

Code of Conduct

The paragraphs of the Council's Code of Conduct that had allegedly been breached were:

- 3(1) You must treat others with respect;
- 3(2)(b) You must not bully any person;
- 3(2)(c) You must not intimidate or attempt to intimidate any person who is or is likely to be –
 - (i) a complainant
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings.

Summary of Evidence and representations made

The Chair informed the meeting that the Sub-Committee would initially consider matters of disputed facts relating to whether the Councillors were acting in their official capacity at the time of the alleged incident. If they were found to be acting in their official capacity, the hearing would continue, but if not, any actions on that day would not be covered by Leicester City Council's Code of Conduct for Elected Members and the matter would be brought to an end. Neither the Investigator nor the Subject Members' Solicitor objected to this approach.

The Sub-Committee heard representations from the Investigator, the Subject Members' Solicitor and the Subject Members' witnesses. The Investigator did not call any witnesses. The Sub-Committee also had regard to case law relating to "official capacity." The main issues of dispute related to whether the Councillors were acting in their official capacity and as such whether it was their intention to present themselves as Councillors, whether they were wearing their ID badges, the timing of when they gave out their business cards and whether they were acting on Council business or were present as relatives and/or friends of the family.

They then retired to deliberate in private. Upon their return they resolved as follows:

RESOLVED:

That the Standards Hearing Sub-Committee, having taken into consideration the written evidence, representations from the Investigator and the Subject Members' Solicitor, and witness statements on the disputed issues of fact to do with the issue of

whether the Subject Members were acting in their official capacity as Councillors, finds the following facts:

- 1) That, with respect of Councillor Abdul Osman, the Sub-Committee does not accept that he went into the hospital ward with the intention of declaring himself as Councillor to gain an advantage. On the balance of probability, the Sub-Committee does not accept that he was wearing his Council ID badge and that if he presented his business card, this was provided at the end of the conversation and was therefore not relevant. The Sub-Committee also finds that no Council business was being conducted on the ward that day. Based on these findings of fact the Sub-Committee concludes that Councillor Abdul Osman was not acting in his official capacity and was there in a private capacity. Therefore, the Code of Conduct does not apply to this matter and no further action shall be taken.
- 2) That, with respect of Councillor Mohammed Dawood, the Sub-Committee does not accept that he went into the hospital ward with the intention of declaring himself as Councillor to gain an advantage. On the balance of probability, the Sub-Committee does not accept that he was wearing his Council ID badge and that he did not present his business card. The Sub-Committee also finds that no Council business was being conducted on the ward that day. Based on these findings of fact the Sub-Committee concludes that Councillor Mohammed Dawood was not acting in his official capacity and was there in a private capacity. Therefore, the Code of Conduct does not apply to this matter and no further action shall be taken.

6. CLOSE OF MEETING

The meeting closed at 12.05pm.