



Leicester
City Council

Minutes of the Meeting of the
STANDARDS ADVISORY BOARD

Held: THURSDAY, 10 JANUARY 2013 at 5.00pm

P R E S E N T :

Ms Amanda Fitchett	Independent Member
Mr Desmond Henderson	Independent Member
Councillor Shelton	
Councillor Waddington	
Ms Caroline Roberts	Independent Person

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10. APOLOGIES FOR ABSENCE

Apologies for absence were received from Ms Joanne Holland and Ms Glynis Middleton (Independent Members) and Councillor Grant.

11. MEMBERS NOT REQUIRED TO ATTEND

The Monitoring Officer reported that arrangements had been made with Councillor Sood and Mr D Lindley (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. Mr Lindley was not, therefore, required to attend either.

12. APPOINTMENT OF CHAIR

RESOLVED:

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

Ms Fitchett in the Chair.

13. MINUTES OF PREVIOUS MEETING

RESOLVED:

the minutes of the meeting held on 14 November 2012 be confirmed as a correct record.

14. DECLARATIONS OF INTEREST

There were no declarations of interest.

15. 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

16. 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 complaints referenced 2012/09 and 2012/11 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 was 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 the independent investigator had been appointed to carry out the investigation into the complaints after they had been referred for investigation by the former Assessment Sub-Committee on 14 June 2012. The investigation had been completed on 3 December 2012.

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 reported that the complainant had made a further submission after receiving the 1st draft of the investigator's report and the investigating officer had then decided to address the issues in the final report. The complainant had also sent an e-mail and other documents to the independent members and the independent person after receiving the final report. The complainant should not have done this, as there was no right to submit additional information to Members of the Board, or to submit further information once the final report had been issued. Neither had every member of the Board received it. The subject member (the councillor who was the subject of the complaint) had not made any additional representation and was also unaware that the complainant had done so.

The Independent Person commented that the complainant had tried to further

influence the investigation by submitting two sets of evidence after the report had been written. She was also concerned at the length of time that it had taken to produce the final report, but accepted that the new standards' regime may have contributed to this. The Monitoring Officer commented that the final report could have been submitted earlier, but the investigating officer had wanted to demonstrate fairness by considering and addressing the issues raised by complainant's submission after the draft report had been issued. The final report had been delayed as a result, as it had been re-drafted to take account of both the complainant's and the subject member's comments in relation to these issues.

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.

Ms Caroline Roberts, as the Independent Person advising the Board, stated that she agreed with the Investigating Officer's findings. She was further disappointed that one of the participants had declined to participate in any methods for conciliation or mediation.

The Board Members discussed the findings of each element of the complaint and agreed with the investigator's findings on each account, except for one Member of the Board who took a different view in relation to the findings concerning the telephone call/tweet and site visit elements of the complaint.

RESOLVED:

- 1) that the findings of the Investigating Officer as stated in paragraph 15.1 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 Investigating Officer's view that mediation would be beneficial in this case, if the two parties were agreeable be supported, to ensure the subject member and the complainant could re-establish a working relationship;
- 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 guidance on the use of social media should be prepared and sent to all councillors.

17. CLOSE OF MEETING

The Chair declared the meeting closed at 7.12pm