



Leicester
City Council

Minutes of the Meeting of the
STANDARDS ADVISORY BOARD

Held: THURSDAY, 19 DECEMBER 2013 at 5.30 pm

P R E S E N T :

Ms Fiona Barber	Independent Member
Ms Joanne Holland	Independent Member
Mr Stephen Purser	Independent Member
Councillor Shelton	

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9. APOLOGIES FOR ABSENCE

Apologies for absence were received from Caroline Roberts (Independent Person) although her written comments were conveyed via the Monitoring Officer.

10. MEMBERS NOT REQUIRED TO ATTEND

The Monitoring Officer reported 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 three independent members in attendance and, therefore, arrangements had been made to ensure that there were no more than three Councillors in attendance. In the event only one Councillor could attend as two Councillors were on other Council business and a third had indicated that they had an interest in some of the subject matter of the complaint and decided it would not be appropriate for them to attend the meeting.

Also, as only the Independent Person who had been involved in reviewing the complaint was required to attend the meeting to enable the Board to receive their views, Mr Lindley was not required to attend either.

11. APPOINTMENT OF CHAIR

RESOLVED:

that Joanne Holland be appointed as Chair for the meeting.

Joanne Holland in the Chair.

12. DECLARATIONS OF INTEREST

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

13. 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.

14. 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 a complaint referenced 2013/04 and to 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 sub-committee 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 the Independent Person 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 21 November 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 investigating officer, and invited her to present her findings.

The independent investigator then presented her report in detail and explained the principles of the tests that needed to be applied to some of the findings to determine whether there had been a breach. The investigation had considered

each element of the complaint in detail and involved discussions with the complainant and to some extent, the Member concerned. There had also been a great deal of discussions with a wide range of witnesses and residents from the local community. The investigator expressed a great deal of sympathy with the complaints raised, and expressed concern regarding some of the complaints raised, but overall, it couldn't be regarded that the Members' Code of Conduct had been breached.

The Board considered each element of the complaint in turn and agreed with the view of the investigator, that no specific breach was found with any of the complaints, taking into account detailed advice regarding matters such as when a Councillor could be considered to be on Council business, and the threshold of "misconduct" needed in order to establish a breach.

Board Members discussed the findings and asked questions of the independent investigator to clarify some points. The Board overall felt that there was a strong justification to make the complaints in the first instance and it was a worthwhile exercise that they were fully investigated. Whilst it was recognised that there was no specific breach of the Councillors Code of Conduct, the Board sympathised with the issues being raised and requested that the Monitoring Officer give some consideration to undertaking further actions, to address certain behaviours and enable more effective representation in the Ward concerned.

It was suggested that no further complaints be considered from either the complainant or the councillor complained about unless and until they had first made a concerted effort to repair their relationship. The Monitoring Officer gave advice about the difficulties in labelling a complainant as being vexatious", (especially where it might encourage the same complaints to be filtered through others who don't possess that label) and it was suggested that the preferred route would be for the Monitoring Officer and Independent Person to consider the context of complaints regarding these parties, should any new complaints be lodged.

The Board also considered whether the resumption of Ward meetings in that area could be made contingent upon each Councillor engaging in mediation. Overall however it was felt that this would be unlikely to prove effective, and might also run counter to the idea of developing more flexible way of community engagement away from a focus on specific Ward meetings. .

The Board considered publication of the report, but on balance decided against this idea, but agreed that the Monitoring Officer publish details of the Board's consideration of the complaint, to demonstrate that the issues raised have been taken seriously.

The Board also strongly recommended that procedures in relation to approval of Ward Community Meeting funding be reviewed and amended, bearing in mind that the current guidance is unclear about the role of "voting" or seeking "indications" from the community at Ward meetings regarding specific funding bids.

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

Caroline Roberts, as the Independent Person advising the Board, was not able to attend the meeting, but had submitted her comments in writing to the Board which were conveyed at the meeting. She stated that she agreed with the Investigating Officer's findings. She did however share the Board's concerns with regard to the representation in the Ward in terms of the public perceptions of this on-going dispute. She was clear that the Committee should consider whether further complaint should be accepted.

The Board Members discussed the findings of each element of the complaint and agreed with the investigator's findings on each account.

On another matter, the Board were firmly of the opinion that they did not wish to receive additional information, comment or advice from either the complainant, the councillor complained about or any witnesses following the publication of the investigators report.

RESOLVED:

- 1) that the findings of the Investigating Officer as stated in paragraph 6.2 of the investigator's report that, on the balance of probabilities, there had not been a breach of the Council's Code of Conduct be endorsed;
- 2) that the outcome letter from the Board's consideration of this complaint be made available on the Council's webpages on the basis that although the actions alleged fell short of a definable breach of the Code of Conduct, the underlying problems in that Ward merit particular attention and comment;
- 3) that the Board recommends that procedures with regard to the approval of Ward Community Meeting funding be reviewed following the evidence provided as part of this investigation; and
- 4) that in future the Board are not to receive additional information/comment provided by the complainant or the subject Member which may be sent to the Monitoring Officer following the publication of the investigator's report.

15. CLOSE OF MEETING

The Chair declared the meeting closed at 7.40pm.