

STANDARDS COMMITTEE

AGENDA STATUS: PUBLIC

Report Title	Investigation Report in relation to a complaint made against a Councillor
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Date of Meeting:	9 th May 2012 at 3 pm, Jeffery Room, Guildhall).
Directorate:	Chief Executive
Ward(s)	N/A.

1. Summary

- 1.1 The Complainant, alleges that a Parish Councillor (the “Subject Member”) failed, or may have failed to comply with the authority’s Model Code of Conduct for Councillors.
- 1.2 An Assessment Sub-Committee of the Standards Committee met on 19th August 2011 to consider the complaint. A copy of the Report that went to the Assessment Sub-Committee together with the papers that the Sub-Committee considered (including the complaint) is attached at Appendix 1.
- 1.3 A copy of the Assessment Sub-Committee’s Decision Notice is attached at Appendix 2.
- 1.4 The Assessment Sub-Committee decided to refer the allegation against the Subject Member to Northampton Borough Council’s Monitoring Officer for investigation.
- 1.5 The Monitoring Officer delegated his function of conducting the investigation to an independent external Investigator. However, the Monitoring Officer did retain the function of overseeing the investigation.
- 1.6 The independent Investigator has now concluded his investigation and prepared an Investigation Report dated 14th February 2012 detailing his findings. The Investigation Report is attached at Appendix 3.
- 1.7 The purpose of this Consideration Sub-Committee meeting is for the Sub-Committee to decide whether it agrees with the Investigator’s finding that there has not been a breach of the Code of Conduct by the Subject Member.

2. Recommendations

- 2.1 That the Sub-Committee consider pursuant to Regulation 8(6) of the Standards Committee (England) Regulations 2008 (the “Regulations”) whether any of the information to be considered at its meeting is exempt information (which would result in the public being excluded from the meeting when the exempt information is being considered).

2.2 In relation to the allegation against the Subject Member, Members of the Sub-Committee are recommended to consider the Investigation Report and determine whether:

2.2.1 they accept and agree with the Investigator's finding that the Subject Member did not fail to comply with Code of Conduct; or

2.2.2 they believe that there is a case for the Subject Member to answer, in which case there will be a hearing and the Sub-Committee will need to decide whether to determine the matter at a separate hearing meeting of the Standards Committee or whether to refer the matter to the First Tier Tribunal for determination.

3. Report Background

3.1 Introduction

3.1.1 This Sub-Committee of the Standards Committee has been convened under Regulation 17 for the purpose of considering the Investigation Report which relates to the following paragraphs of the Model Code of Conduct for Councillors:

- Failing to treat others with respect (paragraph 3(1))
- Bullying any person (paragraph 3(2)(b))
- Disclosing confidential information (paragraph 4(a)) (which is subject to exceptions listed in 4(a)(i) – (v))
- Bringing an office or authority into disrepute (paragraph 5).

3.2 Exempt Information

3.2.1 Regulation 8(6) enables the Sub-Committee to consider whether any of the information presented to it at this meeting which has been convened to consider the Investigation Report should be considered as exempt information under Schedule 12A of the Local Government Act 1972. The public are excluded from meetings or parts of meetings where exempt information is being considered.

3.2.2 The Sub-Committee must decide whether the public interest in maintaining the exemption (thus excluding the public from the meeting) outweighs the public interest in disclosing the information. It should be noted that if the Sub-Committee decides to accept the finding of the Investigator that there has been no failure to comply with the Code, Regulation 17(4) enables the Subject Member to prohibit publication of a notice detailing this decision. However, the existence of Regulation 17(4) does not automatically have to result in the public being excluded from this meeting. The public interest in transparent decision-making by the Standards Committee has to be considered against the Subject Member's interest in limiting the publication of an unproven allegation that has not been determined. The Appendices to this Report are exempted from publication pending consideration of the exemption by the Sub-Committee at this meeting.

3.3 Role of the Consideration Sub-Committee

3.3.1 The role of this Sub-Committee at this meeting is to decide (pursuant to Regulation 17(1)) based on the facts in the Investigation Report, whether it

agrees with the Investigator's finding that there has been no failure to comply with the Code or, if it considers that there is a case for the Subject Member to answer.

3.3.2 The Sub-Committee should simply consider the Investigator's Report. (The purpose of this meeting is not to seek to interview witnesses or take representations from the parties).

3.3.3 If the Sub-Committee agrees that the Code has not been breached, a notice must be published in a local newspaper. The Sub-Committee can also arrange for the notice to be published on the Parish Council's website and in any other publication. Any such notice would state the finding of this Sub-Committee and the reasons for that finding. However as stated in paragraph 3.2.2 above, the Subject Member would be entitled to insist that such a notice is not published anywhere.

3.3.4 If the Sub-Committee does not agree with the Investigator's "finding of no failure" and considers that there is a case for the Subject Member to answer, a hearing must take place. Pursuant to the Regulations, the hearing must take place within 3 months of the completion of the Investigation Report or as soon as reasonably practicable thereafter.

3.3.5 The matter can be considered at a hearing of the Standards Committee conducted under Regulation 18. Alternatively, if the Sub-Committee determines that the action it could take against the Subject Member would be insufficient, it can decide that the matter should be referred to the First-tier Tribunal for determination provided that the First-tier Tribunal has agreed to accept the referral (Regulation 17(2)). Members of the Sub-Committee are asked to note that the Localism Act 2011 is abolishing the jurisdiction of the First-tier Tribunal in relation to councillor conduct issues. Therefore, the ability to refer the matter to the First-tier Tribunal is subject to any transitional provisions made in this transitional period (between the abolition of Standards for England and the end of the current Model Code of Conduct statutory standards process).

4. Implications (including financial implications)

4.1 Resources and Risk

4.1.1 There would be a significant cost in conducting a hearing to determine the complaint. There is a budget of £10,000 available. (However, some of this budget has been spent and there are other complaints to be funded from it).

4.2 Legal

The legal implications are covered in the body of this Report.

4.3 Other Implications

None

5. Background Papers

File reference FJF SB000020/28.

Standards Board for England – “*Local Standards Framework – Guide for Authorities*”

Report Author and Title: Marianne McCarthy, Corporate and Commercial Solicitor
on behalf of
Francis Fernandes, Borough Secretary & Monitoring Officer

Telephone and Email: 01604 837343; mmccarthy@northampton.gov.uk
01604 837334; ffernandes@northampton.gov.uk