

Minutes of the meeting of the Standards Assessment / Review Sub-Committee
held on 3 November 2011 commencing at 2.30 pm

Present:	Independent Member:	Mr A Smith (Chairman)
	Parish/Town Council Representative:	Cllr D Taylor
	District Council Representative:	Cllr C Dibsall
	Monitoring Officer:	Mrs C Nuttall
	Democratic Services Officer	Mr D Williamson

4. DECLARATIONS OF INTEREST

There were no declarations of Interest.

5. EXCLUSION OF PRESS AND PUBLIC

Resolved: That the meeting of the panel to discuss the allegations of Member misconduct (reference FC44 and FC45), be held in confidential session.

6. CONSIDERATION OF ANY COMPLAINTS THAT A MEMBER HAS BREACHED THE CODE OF CONDUCT

FC44

This matter related to a Parish Councillor.

Resolved: That the subject member be provided with a summary of the details of the complaint.

The potential breaches of the Code of Conduct identified were:

Paragraph 5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute

Paragraph 9 - Disclosure of Personal Interests

Paragraph 12 - Effect of Prejudicial Interests on Participation

Resolved: No further action:

Reason

The Assessment Sub-Committee thoroughly examined the complaint together with the evidence submitted by the complainants. In addition copies of the relevant Parish Council Standing Orders were provided and access to a public website related to the local issue at the heart of the complaint that was linked to the complainants.

The Sub-Committee considered this information in conjunction with Standards for England guidance relating to paragraphs 5, 8, 9, 10 and 12 of the Code of Conduct.

The Assessment Sub-Committee considered each individual page of the complaint in order to ascertain whether there was any prima facie evidence of a breach of the Code of Conduct. The Sub-Committee felt that the complaint may have highlighted some possible administrative issues in dealing with the proposed development, but did not consider that any of these could be considered the individual responsibility of the Chairman, but rather would be a collective responsibility of the whole Council, and would not amount to a breach of the Code of Conduct. It was also considered that there was no prima facie evidence that the subject member had acted in any way for private gain, or by putting their private interest above the public interest.

In terms of specific issues, it was noted that the Council's Standing Orders did allow the meeting Chairmen to use a casting vote in a situation where votes are tied. It was also noted that the relevant Item (Affordable Housing Project) was listed on the Agenda for the Parish Council meeting on 4th April 2011. It would not be normal practice to list "motions" on the Agenda, as expected by the complainants. Often Agenda items are moved with the agreement of the Chairman. The Sub-Committee discussed the position of the subject member as sitting on the Village Project Steering Group and the Parish Council, and took advice from the Monitoring Officer. The members on the Steering Group would as part of that role need to feed back to the full Parish Council, and this would not preclude them from taking part in the discussions and decisions at the Parish Council meeting.

There was some concern voiced over the "written vote" taken at the 4th April meeting, and how this could be perceived by the public. It was noted though that it was within the rules of the Parish Council Standing Orders, and that the minutes set out that it had been proposed by a different Parish Councillor and had been agreed by those present before it was carried out. The Sub-Committee did recognise that, although it was difficult to assess what pressures may have prevailed at the meeting it did appear to be a difficult, controversial issue. A written vote would not have amounted to a breach of the Code of Conduct by the subject member.

The complaint also referred to the Chairman "allowing" misleading statements to be made at the meeting, but it was considered that the Chairman was allowing freedom of speech and individual perceptions and opinions would have differed. Members are allowed to hold strong views and the Code of Conduct is not meant to gag members.

The Monitoring Officer advised that she had obtained advice from Standards for England in relation to whether there can be any Prejudicial Interest when a Parish Council is considering a proposal, rather than an actual planning application. The advice was that a proposal as opposed to a planning application would not be regarded as a regulatory matter as the Parish Council would not be acting in their capacity as a statutory consultee.

Therefore, in such a situation there would not be a Prejudicial Interest. It was noted that the complainants make reference to the Parish Council being in a position of “allowing” the Housing Association to put in a planning application. Whilst recognising that the Association may have stated that they would not do so without Parish Council support, in reality the Council could have no actual power over the Association’s decisions and actions. With regard to the question of possible Personal Interests, the complainants suggest that the subject member could have such an Interest, but do not provide any prima facie evidence but merely presented the Sub-Committee with a series of questions in relation to the subject member. It is not the role of the Sub-Committee to make such investigations, and there was no indicative reasons given why the subject member in particular, may be in such a position.

For all the above reasons the Sub-Committee concluded there was no substantive prima facie evidence to suggest a potential breach of the Code of Conduct had taken place in relation to the subject member.

FC45

This matter related to a Parish Councillor.

Resolved: That the subject member be provided with a summary of the details of the complaint.

The potential breaches of the Code of Conduct identified were:

Paragraph 5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute

Paragraph 9 - Disclosure of Personal Interests

Paragraph 12 - Effect of Prejudicial Interests on Participation

Resolved: No further action:

Reason

The Assessment Sub-Committee thoroughly examined the complaint together with the evidence submitted by the complainants. In addition copies of the relevant Parish Council Standing Orders were provided and access to a public website related to the local issue at the heart of the complaint that was linked to the complainants.

The Sub-Committee considered this information in conjunction with Standards for England guidance relating to paragraphs 5, 8, 9, 10 and 12 of the Code of Conduct.

The Assessment Sub-Committee considered each individual page of the complaint in order to ascertain whether there was any prima facie evidence of a breach of the Code of Conduct. The Sub-Committee felt that the complaint may have highlighted some possible administrative issues in dealing with the proposed development, but did not consider that any of these could be considered the individual responsibility of the Deputy Chairman, but rather

would be a collective responsibility of the whole Council, and would not amount to a breach of the Code of Conduct. It was also considered that there was no prime facie evidence that the subject member had acted in any way for private gain, or by putting their private interest above the public interest.

In terms of specific issues it was noted that the relevant Item (Affordable Housing Project) was listed on the Agenda for the Parish Council meeting on 4th April 2011. It would not be normal practice to list "motions" on the Agenda, as expected by the complainants.

The Sub-Committee discussed the position of the subject member as sitting on the Village Project Steering Group and the Parish Council, and took advice from the Monitoring Officer. The members on the Steering Group would as part of that role need to feed back to the full Parish Council, and this would not preclude them from taking part in the discussions and decisions at the Parish Council meeting.

There was some concern voiced over the "written vote" taken at the 4th April meeting, and how this could be perceived by the public. It was noted though that it was within the rules of the Parish Council Standing Orders, and that the minutes set out that it had been proposed by a different Parish Councillor and had been agreed by those present before it was carried out. The Sub-Committee did recognise that, although it was difficult to assess what pressures may have prevailed at the meeting it did appear to be a difficult, controversial issue. A written vote would not have amounted to a breach of the Code of Conduct by the subject member.

With regard to the suggestion of misleading statements being made at the meeting, it was considered this was allowing freedom of speech and individual perceptions and opinions would have differed. Members are allowed to hold strong views and the Code of Conduct is not meant to gag members.

The Monitoring Officer advised that she had obtained advice from Standards for England in relation to whether there can be any Prejudicial Interest when a Parish Council is considering a proposal, rather than an actual planning application. The advice was that a proposal as opposed to a planning application would not be regarded as a regulatory matter as the Parish Council would not be acting in their capacity as a statutory consultee. Therefore, in such a situation there would not be a Prejudicial Interest. It was noted that the complainants make reference to the Parish Council being in a position of "allowing" the Housing Association to put in a planning application. Whilst recognising that the Association may have stated that they would not do so without Parish Council support, in reality the Council could have no actual power over the Association's decisions and actions. With regard to the question of possible Personal Interests, the complainants suggest that the subject member could have such an Interest, but do not provide any prima facie evidence but merely presented the Sub-Committee with a series of questions in relation to the subject member. It is not the role of the Sub-Committee to make such investigations, and there was no indicative reasons given why the subject member in particular, may be in such a position.

For all the above reasons the Sub-Committee concluded there was no substantive prime facie evidence to suggest a potential breach of the Code of Conduct had taken place in relation to the subject member.

THE MEETING WAS CONCLUDED AT 3.05 pm

Chairman