

Consideration Sub Committee

A meeting of Consideration Sub Committee was held on Thursday, 23rd October, 2008.

Present: Mrs E Chapman (Independent Chair); Mr T Bowman (Parish Representative) and Councillor P Baker (Elected Member)

Officers: Mr J Nertney (LD), Mr A Squires (LD) & Mr G Morton (Investigating Officer (LD))

Also in attendance: None

Apologies: None

CSC 1/08 **Declarations of Interest.**

There were no declarations of interest declared at the meeting.

Mr Squires advised that Councillor Apedaile had declared a personal and prejudicial interest following receipt of the Agenda as the member subject of the Investigation Report was a friend. Councillor Apedaile was substituted by Mr Bowman.

CSC 2/08 **Quorum**

The Legal Advisor (Mr Nertney) confirmed that the meeting was quorate.

CSC 3/08 **Purpose of the Meeting and Procedure to be followed.**

The purpose and procedure to be followed during the meeting was explained by the Legal Advisor. Specifically Members were advised that the meeting was not a hearing and that Members were required to consider the Investigation Report. Members were also advised that they could question the Investigating Officer and ask for clarification of any of the points set out in the Investigation Report.

Members were advised that the Investigating Officer would first present an oral summary of his Investigation Report and then would answer any question raised by Members.

The Legal Advisor referred Members to the two possible decisions that the Committee could arrive at, following its consideration of the Investigation Report which were: -

- that it accepted the findings contained in the Investigation Report or,
- that the matter should be considered further at a hearing.

CSC 4/08 **Exclusion of the Press and Public.**

Members considered whether it was appropriate to make a resolution to exclude the press and public during consideration of the Investigation Report. Having regard to the nature of the complaint and the information detailed in the Investigation Report they concluded that it was not necessary.

Final Report - Reference Under Section 60 (2) of the Local Government Act 2000 to the Monitoring Officer, Stockton-on-Tees Borough Council - Standards Board of England Case Reference: SBE 21787.08

The Investigating Officer presented his Investigation Report to the Sub-Committee and gave a summary of the complaint. The complaint related to an allegation that a member had acted in an offensive and aggressive manner towards an Officer from Tristar Homes during a site visit and that in doing so had failed to treat that person with respect.

The Investigating Officer set out the evidence which he had gathered including details of the witnesses he had interviewed. The Investigating Officer explained that one person who was a witness to the incident had failed to keep to interview arrangements on four occasions; therefore the investigation was concluded without obtaining their evidence.

On the balance of evidence available the Investigating Officer advised that he had not made a finding that the member had breached the Code of Conduct with regard to failing to treat others with respect (Paragraph 3 (1)). The Investigating Officer advised that the evidence suggested that the Member's questioning and actions towards the Officer was forceful and assertive. The Investigating Officer also advised that the evidence showed that the Member was critical of Officers and the performance of Tristar generally. The Investigating Officer concluded however that the evidence did not suggest an offensive personal attack on the Officer.

The Investigating Officer also referred the Sub-Committee to the Standards Board of England guidance (Standards Board Case Review 2007), which sets out that: "The government did not intend the Code of Conduct to constrain members' involvement in local governance, including the role of members to challenge performance. Members are able to question and probe poor officer performance provided it is done in an appropriate way".

The Sub-Committee questioned the Investigating Officer on the content of his report and in particular asked for clarification concerning the witness who failed to attend for interview. They also asked the Investigating Officer how he had approached and dealt with the inconsistencies between the evidence given by the various witnesses detailed in the Investigation Report when reaching his findings

The Sub-Committee then discussed the Investigation Report and considered their decision.

The Consideration Sub-Committee's Decision

The Sub-Committee accepted the findings contained in the Investigation Report and agreed that the Member had not failed to treat others (Officer) with respect.

The Sub-Committee noted that the evidence indicated the Member was clearly critical of Tristar Homes and at times critical of the officers attending the site visit. They noted that the evidence suggested that this may have been because the Member was frustrated by what they saw as an overall lack of

action by Tristar Homes. The Sub-Committee agreed with the Investigating Officer that the evidence did not suggest that the content of the Member's criticism of Tristar Homes or of officers was a personal attack on the Officer attending the site visit, nor was the content of his remarks specifically offensive to the Officer.

The Sub-Committee also agreed that a Members questioning of an Officers performance provided it is done in an appropriate way is not considered to be a breach of the Code of Conduct, although in this situation it may have been done at a more appropriate venue.

RESOLVED that the findings in the report, that there had been no breach of Paragraph 3 (1) of the Code of Conduct, be accepted.