

Consideration Sub Committee

A meeting of Consideration Sub Committee was held on Thursday, 12th February, 2009.

Present: Mrs E Chapman (Independent Chair); Mr R Mosley (Parish Representative) and Councillor P Baker (Elected Member).

Officers: Mrs J Douglas (LD); Mrs J Grant (Investigating Officer (LD)); Mr J Nertney (Investigating Officer (LD)); Mr A Squires (LD) & Mr R Phillips (LD).

Also in attendance: Cllr Roy Rix.

Apologies: None.

CSC 6/08 Introduction.

Attendees introduced themselves and explained their role at the meeting.

CSC 7/08 Declarations of Interest

There were no declarations of interest declared at the meeting.

CSC 8/08 Quorum.

The Legal Officer (Mrs J Douglas) confirmed that the meeting was quorate.

CSC 9/08 Purpose of the Meeting and Procedure to be Followed.

The purpose and procedure to be followed during the meeting was explained by the Legal Officer. Specifically Members were advised that the meeting was not a hearing and that Members were required to consider the Investigation Reports to decide based on the facts in the reports whether they agree that the Code has not been breached or if there is a case to answer. 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 Reports.

Members were advised that the Investigating Officers would first present an oral summary of their Investigation Reports and then would answer any question raised by Members.

The Legal Officer referred Members to the three 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, or
- that the matter should be referred to the Adjudication Panel for England, if it appeared to be a serious breach of the Code and that the sanctions available to the Standards Committee were insufficient.

CSC 10/08 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 Reports. Having regard to the nature of the complaints and the information detailed in the Investigation Reports they concluded that it was not necessary. At this point Cllr Rix attended the meeting.

**CSC
11/08** **Final Report - Reference Under Section 60(2) of the Local Government Act 2000 to the Monitoring Officer, Stockton-on-Tees Borough Council - Standards Board for England Case Reference - SBE 21810.08**

The Investigating Officer (Mr J Nertney) presented his Investigation Report to the Sub-Committee and gave a summary of the complaint. The complaint related to an allegation that a parish councillor had failed to declare a personal interest at a meeting held in November 2007 when he agreed to gain sponsorship for the village carol concert, which he subsequently obtained. At the time of the meeting the complainant alleged that the parish councillor was a personal friend of the owner of a business that had provided sponsorship. In addition it was further alleged that the parish councillor also had a financial / business association, as he received instructions and work from the owner of the same business in his role as a Director of a company; therefore had a personal / prejudicial interest which he failed to declare at the said meeting.

The Investigating Officer set out the evidence which he had gathered including details of the witnesses he had interviewed. The Investigating Officer confirmed that the parish councillor did arrange sponsorship for the village carol concert from a number of businesses, including the one stated by the complainant. He explained to the sub-committee that his investigation centred on whether a relationship existed between the parish councillor and the owner of the business at the time of the meeting in November 2007.

Following interviews with the parties involved the Investigating Officer accepted that there was no personal relationship at the time of the November 2007 meeting, although a relationship had formed from April 2008 onwards with regards to a financial / business association.

The Investigating Officer highlighted that on releasing his draft Investigation Report the complainant had commented on his findings but was unable to provide any additional information relating to the friendship of the parish councillor and the owner of the business at the time of the meeting.

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 regards to failing to declare a personal interest and/or prejudicial interest (Paragraph 9 (1)).

The Sub-Committee questioned the Investigating Officer on the content of his report and in particular asked for clarification concerning a number of issues, such as the amount of the sponsorship, whether the carol concert was reliant on sponsorship and the fact that no sponsorship money had been recovered from the business due to the complaint.

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 declare a personal and/or prejudicial interest.

The reason for the Sub-Committee's acceptance of the Investigation Report is that there was no evidence presented which would suggest that at the date of the meeting there was any close association, personal friendship or business relationship between the parish councillor and the owner of the business that sponsored the village carol concert, therefore the parish councillor did not need to declare a personal and / or prejudicial interest.

Although the parish councillor and the owner of the business had met on one occasion prior to the meeting the evidence presented indicated that the parish councillor did not develop a business relationship with the owner of the business until April 2008. Further the evidence presented did not suggest that there was any close association.

The Sub-Committee did note that the Clerk to the Parish Council accepted that the decision not to invoice the business for their sponsorship monies due to the receipt of a complaint should have been minuted, however neither the decision not to invoice nor the failure to minute that decision was a breach of the Code.

RESOLVED that the findings in the report, that there had been no breach of Paragraph 9 (1) of the Code of Conduct, be accepted.

CSC 12/08 **Final Report - Reference Under Section 57A (2)(a) of the Local Government Act 2000 to the Monitoring Officer, Stockton-on-Tees Borough Council, Case Reference: SBC 6.**

The Investigating Officer (Mrs J Grant) presented her Investigation Report to the Sub-Committee and gave a summary of the complaint. The complaint related to an allegation that a member of the planning committee manipulated and pre-determined the complainant's planning application by describing him to a third party as potentially violent (PV) and a bully and as a result his planning application was refused. The comments allegedly took place in March / April 2008 at an external meeting when the third party tried to enlist the help of two planning committee members regarding the complainant's planning application.

The Investigating Officer set out the evidence which she had gathered including details of the witnesses she had interviewed. The Investigating Officer stated that this investigation looked at whether the planning application was dealt with appropriately and highlighted that the complainant had previously made a complaint to the Planning Department.

The Investigating Officer stated that it had been difficult to determine this allegation due to the elapsed time and inconsistent accounts of the three parties interviewed. It was confirmed that when the third party was interviewed he actually stated that it was another councillor who had told him that the complainant was on the PV register, not the Councillor subject of the complaint. The only consistent disclosures that came from the persons interviewed were that the Councillor subject of the complaint did not want to discuss or get

involved in the complainant's planning application due to his position as a member of the planning committee.

The Investigating Officer confirmed that the complainant's planning application files had been inspected as well as his previous complaint and there was no evidence that they had been marked PV or that his planning application had been dealt with improperly.

On the balance of evidence available the Investigating Officer advised that she had not made a finding that the member had breached the Code of Conduct with regards to failing to treat others with respect (Paragraph 3 (1)), disclosing confidential information (Paragraph 4 (a)) or bringing his office or authority into disrepute (Paragraph 5).

The Sub-Committee questioned the Investigating Officer on the content of her report and in particular asked for clarification concerning the third party's involvement in the planning application.

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 with respect, had not disclosed confidential information and had not brought his office or authority into disrepute.

The reason for the Sub-Committee's acceptance of the Investigation Report is that on the balance of evidence presented, although all three people interviewed gave a different account, all three did confirm that the Councillor did not want to discuss the matter or get involved with the complainant's planning application due to his position as a member of the planning committee. This was a conscious decision not to involve himself so as not to predetermine the planning application.

Further there was no evidence to substantiate the allegation that the Councillor had stated that the complainant had been threatening towards Planning Officers or that the complainant had been marked as potentially violent. In fact the third party, who was assisting the complainant with his planning application, indicated when interviewed that it was another councillor who had told him that the complainant was on the potentially violent register.

The Investigating Officer had also examined the planning records and found no references to the abbreviation PV.

RESOLVED that the findings in the report, that there had been no breach of Paragraph 3 (1), 4 (a) or 5 of the Code of Conduct, be accepted.