

Minutes of: STANDARDS COMMITTEE (HEARING PANEL)

Date of Meeting: 15 September 2009

Present: Mr A Withington (Independent Member) (in the Chair);
Mrs A Brown (Independent Member) and Mr D Gremson
(Independent Member).

Apologies for Absence: There were no apologies for absence.

Also in Attendance: Councillor R C A Brown, Mr K Malde (Investigator), Mrs J
Hammond (Legal Adviser) and Mr C Shillitto (Clerk to the
Hearing Panel).

Public Attendance: There was one member of the public in attendance.

S.01 DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

**S.02 REPORT OF THE INVESTIGATING OFFICER IN RELATION TO
COMPLAINT SC.04**

In opening the Hearing, the Chair introduced those present and outlined the procedure.

The Panel considered a report of an investigation under Section 66 of the Local Government Act 2000 into an allegation concerning Councillor Roger Brown. The allegation was that during a Resource and Performance Scrutiny Commission meeting held on 16 December 2008, specific comments made by Councillor Brown towards Mr S Morton constituted an 'unreasonable and excessive personal attack' on Mr Morton, and by behaving in this manner, Councillor Brown intimidated Mr Morton and failed to treat him with respect.

The Legal Advisor informed the Panel that it was not appropriate to consider an allegation of "intimidation" as the Code of Conduct specifically referred to intimidation being in terms of a person who is or is likely to be:-

- (i) a complainant;
- (ii) a witness; or
- (iii) involved in the administration of any investigation or proceedings in relation to an allegation that a member has failed to comply with his/her Authority's Code of Conduct.

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The report concluded that Councillor Brown had breached the Code of Conduct under Paragraph 3(1) which states that "you must treat others with respect.."

Under the Hearings Procedure, the Panel considered whether or not there were any significant disagreements about the facts contained in the Investigator's Report as set out under Paragraphs 4.1 to 4.4. Councillor Brown had issued a statement and reported to Members that he accepted Paragraphs 4.1 and 4.2 but not Paragraphs 4.3 and 4.4. Mr Malde was invited to respond. The Panel noted that Paragraph 4.1 and 4.2 were accepted by both parties.

With regard to Paragraph 4.3, on the balance of probabilities, the Panel could not say that Mr Morton knew the contents of the Policy on the Pay Protection Report which was discussed at a confidential meeting.

With regard to Paragraph 4.4, this dealt with the next stage of the procedure which deals with whether there was a failure to follow the Code of Conduct.

The Panel then considered whether or not Councillor Brown had failed to follow the Code of Conduct and concluded that he had breached the Code of Conduct under Paragraph 3(1) by failing to treat Mr Morton with respect.

Prior to considering a decision as to whether or not a sanction should be imposed, Councillor Brown referred to precedents in terms of how the Standards Board had dealt with similar cases and asked the Panel to give these due consideration.

DECISION:

1. That Councillor Brown be required to submit a written apology to Mr Morton.
2. That the apology be subject to approval by the Chair of the Panel prior to being issued to Mr Morton.

REASONS FOR THE DECISION:

1. The Panel had accepted the Findings of Fact set out in the Investigation Report.
2. The Panel had given due consideration to cases referred to by Councillor Brown relating to Councillors Carr, Wilmott and Taylor.
3. The Panel acknowledged that Councillor Brown was an experienced senior Member and had an understanding of the Code of Conduct.

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4. Whilst the Panel acknowledged that the Resource and Performance Scrutiny Commission meetings were subject to robust questioning, and that Councillor Brown genuinely believed in what he was putting to Mr Morton it felt that Councillor Brown crossed the line into disrespectful behaviour.
5. The Panel accepted the statement of the report that comments made by Councillor Brown to Mr Morton were heard by those present at the Scrutiny Commission meeting, including members of the public.

The Chair in closing the meeting reminded Councillor Brown of his right of appeal against the decisions of the Panel.

A WITHINGTON
Chair

(Note: The meeting started at 6.30 pm and ended at 8.10 pm)