

**Minutes of the Ethical Standards
and Member Development Committee**

**11th November, 2019 at 2.00pm
at the Sandwell Council House, Oldbury**

Present: Councillor Lewis (Chair);
Councillors Ahmed, Akhter, Dhallu, Hevican,
P Hughes and Simms;
Mr Tew (Independent Person).

Apology: Councillor L Horton.

36/19 Declaration of Interest

Councillor P Hughes declared that he was referred to in a document contained within the papers but it was a minor point that did not prevent him from considering this matter at the Committee.

37/19 Exclusion of the Public and Press

Resolved that the public and press be excluded from the rest of the proceedings to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006 relating to information relating to individuals (paragraph 1) and information likely to reveal the identity of an individual (paragraph 2).

38/19

Review of Standards Complaint Preliminary Assessment Decision

The Committee was requested to consider whether a decision made by the Deputy Monitoring Officer in respect of a complaint made against a member under the Council's Ethical Framework was properly arrived at.

In June 2019, concerns were raised with the Monitoring Officer in relation to the manner in which a standards complaint made in 2016 had been dealt with. The Monitoring Officer undertook a review of the procedures and practices that were followed in respect of the 2016 complaint.

The review by the Monitoring Officer led to two standards complaints being made.

The former Deputy Monitoring Officer (DMO), Phil Tart, undertook an assessment of the complaint in accordance with the Council's Arrangements for dealing with complaints against Elected Members.

As required by the Localism Act 2011 and the Arrangements, the DMO was required to seek the views of the Independent Person before deciding whether or not a formal investigation should be undertaken. The DMO duly sought the views of the Independent Person.

The DMO completed the assessment and determined that the matter should not be referred for investigation.

A request for a review of the DMO decision was made pursuant to the Council's Constitution.

The Committee considered the report and appendices presented that was exempted under Schedule 12A Local Government Act 1972 (as amended).

The Committee gave careful consideration to all material issues, points and factors that had been raised. The Committee heard from the Independent Person and duly considered the representations made by the subject member's representatives.

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The Committee noted that the DMO's decision related to the complaint made in 2019 albeit connected to circumstances and matters arising in the standards complaint going back to 2016.

The Committee acknowledged and accepted that in considering and dealing with the matter before them, the rules of natural justice and the Human Rights Act needed to be complied with, together with all other applicable statutory provisions and legal obligations and duties, such as the Localism Act 2011. The Committee was satisfied that all applicable rules and relevant legislation had been complied with.

The Committee was satisfied that the complainant was entitled to seek a review of the DMO's decision concerning the complaint made in 2019.

Upon considering all the material and relevant facts, issues and representations arising in this matter, a motion was put forward, and seconded, that:

“the DMO's decision be set aside and the matter be referred for reassessment under the Arrangements for dealing with complaints and that a further report be submitted to the Committee in relation to the governance of all complaints dating back from 2015.”

An amendment to the motion was proposed and seconded, and voted upon, and it was:

Resolved:-

- (1) that the Deputy Monitoring Officer's decision of 24 September 2019 be set aside and the complaint against the subject member dated 24 July 2019 be re-assessed under the Arrangements for dealing with complaints against Members (with the possibility of local resolution being explored) and all relevant information being provided to the Independent Person;

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- (2) that the Standards Working Group, already established to review the Members' Code of Conduct and Arrangements for dealing with complaints against Members, considers what lessons can be learned from this matter and what improvements can be made to the Arrangements.

(Meeting ended at 3.48pm)

Contact Officer: Trisha Newton
Democratic Services Unit
0121 569 3193