

WYRE FOREST DISTRICT COUNCIL
ETHICS AND STANDARDS COMMITTEE
29TH MARCH 2010

Outcomes of Recent Assessment Committee/Review Sub-Committee

OPEN	
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APPENDICES	None

1. PURPOSE OF REPORT

- 1.1 To inform Members of the Ethics and Standards Committee of the outcomes of the recent Assessment Committee meetings into an alleged breach of the Code of Conduct.

2. RECOMMENDATION

The Committee is asked to DECIDE that:

- 2.1 **The decision of the recent Assessment Committee and Review Sub-Committee that the complaint falls outside the jurisdiction of these committees and therefore no action can be taken on the allegations.**

3. BACKGROUND

- 3.1 The Local Government and Public Involvement in Health Act 2007 and the Standards Committee (England) Regulations 2008 gave powers to local authorities to become responsible for the assessment of allegations that a Member had breached the Code of conduct. The legislation gave the Council responsibility for any subsequent investigations, decisions and sanctions (except where the cases could not be handled locally due to their seriousness), conflicts of interest or other public interest reasons.

4. KEY ISSUES

- 4.1 On 28th January 2010 the Monitoring Officer received a complaint alleging that a Member of Bewdley Town Council had breached the Members' Code of Conduct.
- 4.2 In accordance with the Council's procedures a meeting of the Assessment Sub-Committee was convened.
- 4.3 The Assessment Sub-Committee comprised Reverend Cox (Independent Chairman) and Councillors D R Godwin, C D Nicholls and R Hobson (Parish Councillor).
- 4.4 The Assessment Sub-Committee considered the complaint using the Council's Assessment criteria.
- 4.5 The Assessment Sub-Committee met in exempt session and a number of options were available to them:

- Referral of the complaint to the Monitoring Officer of the authority for further information or Other Action.
- Referral to the Hearings Sub Committee.
- Referral to Standards for England.
- Decide to take no action.

- 4.6 Having carefully considered the facts, the Assessment Committee came to a decision that no action could be taken as the Code of Conduct does not apply to a Member in their private life. (Until such time as there is Parliamentary approval for amendments to Section 52 of the Local Government Act 2000 which reinstates the situation prior to Collins J's decision in Livingstone V Adjudication Panel for England 2006, the Code of Conduct does not apply to conduct outside of the performance of functions as a Member. Only if a Member has engaged in an activity which has a link with the functions of their office will any conduct in their private capacity be covered by the Code of Conduct. If legislative amendments are passed, the Code of Conduct will also apply to criminal activity which has led to a conviction.)
- 4.7 A decision notice was duly sent to the complainant, the subject of the complaint and a copy was sent to the Town Clerk of the Town Council concerned.
- 4.8 A copy of the Decision Notice was posted on the Council's website.
- 4.9 The Council received a request by the complainant (as is their right) to have the decision reviewed.
- 4.10 A meeting of the council's Review-Sub Committee met on 17th March 2010 to review the decision.
- 4.11 The decision of the Review Sub-Committee was that the complaint fell outside the jurisdiction of the Review Committee and therefore no action could be taken on the allegations.

5. FINANCIAL IMPLICATIONS

- 5.1 There are financial implications in convening these sub-committees but they can be met from existing budgets.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 The Council is required under the Standards (England) Regulations (2008) to determine alleged breaches of the Code of Conduct.

7. EQUALITY IMPACT NEEDS ASSESSMENT

- 7.1 An equality impact assessment has been undertaken but it is considered that there are no discernable impacts on the six equality strands.

8. RISK MANAGEMENT

- 8.1 The Council is required to follow the legislation and guidance concerning the local determination of alleged breaches of the Code of Conduct. Failure to do so might result in intervention by Standards for England.

9. CONCLUSION

- 9.1 This authority takes seriously its responsibility for the local determination of alleged breaches of the Code of Conduct. However it recognises the frustration for the complainant in this case where the code does not cover a Member's behaviour in their private capacity.
- 9.2 Currently no change to the Code has been received by this authority and it not anticipated that the guidance will be sent until at least a new government is in session.

10. CONSULTEES

- 10.1 Chairman and Vice-Chairman of the Ethics and Standards Committee
10.2 Chief Executive
10.3 Leader of the Council

11. BACKGROUND PAPERS

- 11.1 The Local Government and Public Involvement in Health Act 2007
11.2 Standards (England) Regulations (2008)