
REPORT TO:	STANDARDS COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	26TH AUGUST 2008	CATEGORY: DELEGATED
REPORT FROM:	MONITORING OFFICER	EXEMPT PARAGRAPH NO: 7C
MEMBERS' CONTACT POINT:	JEANETTE TSOI (EXT. 5711)	DOC: U:\JAYNE\Committee\COMMREP\CodeConductComplaintBarker.doc
SUBJECT:	CONSIDERATION OF A REPORT INTO AN INVESTIGATION ALLEGING A BREACH OF THE MEMBERS' CODE OF CONDUCT	REF: AGM/JB

1.0 Reason for Exempt

1.1 The deliberations of a Standards Committee established under the provisions of Part III of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) are exempt. Meetings involving the consideration of a report into an investigation alleging a breach of the Code of Conduct may involve unfounded and potentially damaging complaints about Members, which it would not be appropriate to make public.

2.0 Recommendations

2.1 That the Members of the Committee consider the Investigation Report and make one of the following findings:

- (a) That it accepts the Investigating Officer's finding that the Councillor has not failed to comply with the Code of Conduct for Members, as set out in the allegation; or
- (b) That the matter should be considered at a hearing of the Standards Sub-Committee, conducted in accordance with the authority's adopted procedure for Local Determination Hearings.

3.0 Purpose of Report

3.1 To consider the final report of an investigation into an allegation concerning the conduct of Councillor Barker of Barrow upon Trent Parish Council.

4.0 Detail

4.1 An allegation was made by Mr. John Wilcox that Councillor Barker failed to comply with Barrow upon Trent Parish Council's Code of Conduct in that Councillor Barker:

- (a) failed to treat others with respect in relation to her behaviour at a meeting on 2nd October 2007; and

- (b) brought her office or authority into disrepute at the meeting on 2nd October 2007.
- 4.2 The Standards Board for England decided that the allegation made against Councillor Barker should be investigated and referred it to one of its Ethical Standards Officers, who then under Section 60(2) of the Local Government Act 2000 referred the allegation for investigation to the Monitoring Officer of South Derbyshire District Council.
- 4.3 Under Section 82A of the Local Government Act 2000, the Monitoring Officer delegated the investigation of the allegation and the preparation of a report of the investigation to Clare Lefort of Weightmans Solicitors.
- 4.4 As a result of that investigation, the Investigating Officer concluded that Councillor Barker:
 - (a) did not fail to treat others with respect in relation to her behaviour at a meeting on 2nd October 2007; and
 - (b) did not bring her office or authority into disrepute at the meeting on 2nd October 2007.
- 4.5 The Investigating Officer's findings under Regulation 5 of the Local Authorities (Code of Conduct)(Local Determinations) Regulations 2003, as amended, are that there has not been a failure to comply with the Code of Conduct.
- 4.6 Where the Investigating Officer concludes that there has not been a failure to comply with the Code of Conduct, the Standards Committee must consider the report, a copy of which is attached at **Appendix 'A'** and make one of the following findings:
 - (a) That it accepts the Investigating Officer's findings that the Councillor has not failed to comply with the Code of Conduct for Members, as set out in the allegation; or
 - (b) That the matter should be considered at a hearing of the Standards Committee, conducted in accordance with the authority's adopted procedure for Local Determination Hearings.

(Note that 4.6(b) is not a finding of fault on the part of the Councillor, but merely a conclusion that the Standards Committee are not prepared, at that stage, to accept the Investigating Officer's conclusions and that the matter merits examination at a formal hearing)
- 4.7 Consideration of the matter will rely on the report and supporting evidence. No witnesses or other contributors will be called.
- 4.8 Where the Standards Committee finds as set out in paragraph 4.6(a) above (no failure to comply with the Code of Conduct), the Monitoring Officer shall ask the Councillor whether he/she objects to the publication of a notice of the finding in at least one local newspaper and arrange for the publication, unless the Councillor objects.

4.9 If the Committee wishes the matter to be considered at a hearing, this hearing should be scheduled within 3 months of the date of the Investigating Officer's final report i.e. 24th October 2008.

5.0 Financial Implications

5.1 Costs have been incurred in relation to the production of this report and the necessary investigation. There is no mechanism in the legislation to recharge Parish Councils for the cost of undertaking the investigation of this, or subsequent hearings.

6.0 Corporate Implications

6.1 It is a statutory requirement for the Standards Committee to consider any Investigation Report where the Investigating Officer considers that there has not been a failure to comply with the Code of Conduct of the authority concerned i.e. a finding of no failure.

7.0 Community Implications

7.1 The Council's Standards Committee continues to play a vital role in promoting and maintaining the highest standards of conduct by District and Parish Members.