

Hearing of Complaint in Respect of Parish Councillor – W J Smith

Standards Committee Hearings Panel

Date: 23rd March 2007

Author: Monitoring Officer (Director of Law and Democratic Services)

Parish / Wards Affected: None

Purpose

- To hear a complaint in respect of Parish Councillor William Joseph Smith.

Recommendation

The Panel is requested to: -

- Conduct a hearing into the allegation that Parish Councillor W J Smith failed to comply with Wanborough Parish Council's Code of Conduct, which was referred by the Standards Board for England for local investigation and determination.
- Resolve whether to exclude the press and public during all or part of the hearing

1. Reasons

- 1.1 To conduct the Hearing of the Complaint referred by the Standards Board for England for local investigation and determination in accordance with Statutory Guidance and the Council's adopted Hearings Procedure.

2. Detail

The Complaint

- 2.1 A complaint was received by the Standards Board for England on 22nd February 2006 from Ms Kay Lacey with regard to WJ Smith who is a member of Wanborough Parish Council. The complainant alleged that Mr Smith has breached Wanborough Parish Council's Code of Conduct by either failing to declare an interest, or declaring an interest, but failing to withdraw from meetings during which his planning applications were discussed.
- 2.2 The Code of Conduct for Wanborough Parish Council is set out as Appendix B of the Investigator's Report and Part 2 of the Code relates to the requirement to declare interests.

The Investigating Officer's Report

- 2.3 The Standards Board for England decided that this complaint should be investigated, and referred it to the Monitoring Officer to arrange a local investigation. Karen Tricky of Foot Ansty, Solicitors, was appointed as the Investigating Officer.

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- 2.4 The core of the complaint related to meetings which took place on 4th September 2002, 26th January 2004 and 2nd February 2006 at which various applications affecting the land and business at Redlands Farm, Wanborough, were considered. In particular, the complainant alleges that Mr Smith had a personal and prejudicial interest in the applications, by virtue of him being the owner / occupier of Redlands Farm. Despite such, it is claimed that Mr Smith did not leave the meeting room when the matters were discussed. It is alleged that he remained in the room to answer questions on his particular applications, contrary to the Council's Code of Conduct.
- 2.5 A copy of the Investigating Officer's report accompanies this report as Appendix 1. The Investigating Officer considered a) If the Code applied to the circumstances of the case and b) If Mr Smith had a personal and prejudicial interest. The Investigating Officer concluded that:
- a) that in the three Council meetings Mr Smith was acting in an official capacity or conducting the business of the Council and therefore the Code clearly applied to Mr Smith; and
 - b) that Mr Smith had a prejudicial interest in the planning applications affecting Redlands Farm and failed to leave the meeting room when the applications were considered, in breach of Paragraph 10(a) of the Code of Conduct.

The Key Issues

- 2.6 The Investigating Officer's report sets out the key issues and details of the comments which were the subject of the complaint. In his response, Mr Smith indicated that he did not dispute the facts set out in the report and will read out a statement to the Panel at the appropriate time concerning the interpretation of the Code, and points relevant to his mitigation should the Panel agree that the Code has been breached.
- 2.7 Members of the Standards Committee Hearings Panel met on 26th February to consider Mr Smith's response to the Investigating Officer's report. The Panel noted that Mr Smith had stated an intention to bring one witness and noted that the Investigating Officer did not intend to bring any witnesses. The Panel considered that it did not wish any other witnesses to be asked to be present at the Hearing. The Panel also agreed the documentation that should be distributed with the papers for the Hearing.
- 2.8 The Panel also noted Mr Smith's request that the Hearing Panel be held in private but, at that stage, the Panel were not able to identify any grounds under the Local Government Act 1972 on which the public could be excluded, taking into account the 'public interest' test. The Panel noted that the Parish Council meetings in relation to which the complaint arose were public meetings so the matter is already in the public domain.

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The Procedure for the Hearing

- 2.9 A copy of the procedure which the Standards Committee has adopted for the Determination of Complaints referred by the Ethical Standards Officer, together with the 'Practical Arrangements' for use at the hearing are attached at Appendix 2. In this instance, Karen Tricky of Foot Ansty Solicitors, the Investigating Officer, will be present and will therefore present her report.
- 2.10 Mr Smith has confirmed that he is not intending to have legal representation at the hearing. Mr Smith will represent himself and be accompanied by Mrs Sarah Smith.

Alternative Options

- The statutory procedure sets out the way in which the Investigation and Hearing should be conducted.

Risk Management

Financial and Procurement Implications

- There are no significant financial or procurement implications.

Legal / Human Rights Implications

- Complaints to the Standards Board are dealt with in accordance with the statutory process. Any action taken in relation to complaints is considered a proportionate interference with the rights of those complained against.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

- Monitoring and delivering probity in the Council underpins the Council's plans and policies and to the delivery of the 2010 objectives.

Consultees

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.
- Chief Executive
- Group Director, Resources

Background Papers and Appendices

- Appendix 1 - Investigating Officer's Report (Hard Copy only).
- Appendix 2 - Standards Committee Procedure for Determination of Complaints and 'Practical Arrangements' for the Hearing.