

Hearing of Complaint in Respect of Councillor Lister

Standards Committee

Date: 31st May 2006

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

Parish / Wards Affected: None

Purpose

- To hear a complaint in respect of Councillor Dr Charles Owen Lister.

Recommendation

Standards Committee is requested to: -

- Conduct a hearing into the allegation that Councillor Lister failed to comply with the 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 On 27 September 2005, at the request of the Standards Committee, the Monitoring Officer referred to the Standards Board for England a complaint that Councillor Lister had made inappropriate remarks at a meeting of the Children Act Task Group on 8th September 2005. It was alleged that these remarks could be reasonably regarded as bringing his office or the authority into disrepute, in breach of paragraph 4 of the Member's Code of Conduct (attached at Appendix 1).

The Investigating Officer's Report

- 2.2 The Standards Board for England decided that this complaint should be investigated and referred it to the Monitoring Officer to arrange a local investigation. Peter Keith-Lucas of Bevan Brittan, Solicitors of Bristol, was appointed as the Investigating Officer. The core of the complaint related to the manner in which Councillor Lister addressed the Task Group on 8th September 2005 and it is alleged that he made three separate comments concerning (i) the provision of expensive out-of-borough placements for looked after children with severe emotional and behavioural difficulties; (ii) the provision by Swindon Borough Council of an allocated school place for every child irrespective of the nature or

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severity of any disability from which that child might suffer; and (iii) the resuscitation and treatment of premature babies or babies born with severe health problems who survived in a severely disabled state.

- 2.3 The Investigating Officer concluded that the first two grounds had been substantiated and that the Code of Conduct had been breached, but that there was insufficient evidence to substantiate the third allegation. A copy of the Investigating Officer's report is attached at Appendix 2.

The Key Issues

- 2.4 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, Councillor Lister has indicated that he accepts that the comments were made but contends that they were misunderstood and taken out of context. A copy of Councillor Lister's statement dated 16th February is attached to his response at Appendix 3.
- 2.5 Although Councillor Lister has indicated that he does not wish to call any witnesses at this stage, it is understood that he is reviewing the position and may seek to have evidence heard without the press and public being present.
- 2.6 In that event, the Standards Committee will need to consider excluding the press and public for that part of the hearing. The test to be applied will be whether in all the circumstances of the case, the public interest in excluding the press and public outweighs the public interest in being able to hear the witness give evidence in public.

The Procedure for the Hearing

- 2.7 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 4. In this instance, Mr. Keith-Lucas, the Investigating Officer, will be present and will therefore present his report.
- 2.8 Councillor Lister has indicated that he will be present and will present his own case.

Alternative Options

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

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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

- Chief Executive
- Director of Finance
- Group Director, Resources

Background Papers and Appendices

- Appendix 1 – Swindon Borough Council, Members' Code of Conduct
- Appendix 2 - Investigating Officer's Report (Hard Copy only).
- Appendix 3 – Statement of Councillor Lister dated 16th February 2006 (Hard Copy only).
- Appendix 4– Standards Committee Procedure for Determination of Complaints and 'Practical Arrangements' for the Hearing.