

Minutes of the meeting of the **INITIAL ASSESSMENT AND CONSIDERATION SUB-COMMITTEE** held at the Council Offices, Whitfield held on Monday 6 February 2012 at 6.00 pm.

Present:

Chairman: Mr B P S Dowley

Members: Councillor C J Smith
Councillor R J Thompson

Also Present: Mr Duncan Milne (Investigating Officer)

Officers: Monitoring Officer
Solicitor to the Council
Democratic Support Officer

27 DECLARATIONS OF INTEREST

There were no declarations of interest.

28 CONSIDERATION OF THE REPORT OF THE MONITORING OFFICER IN RESPECT OF A REFERRAL FROM THE STANDARDS COMMITTEE: INITIAL ASSESSMENT AND CONSIDERATION SUB-COMMITTEE UNDER SECTION 57A(2)(a) OF THE LOCAL GOVERNMENT ACT 2000 – CASE NO SC089

The Standards (Initial Assessment and Consideration) Sub-Committee at its meeting held on Friday 7 October 2011 referred the allegations made by Mr M Sargent, a member of the public, against Councillor R J Frost, a member of Dover District Council, to the Monitoring Officer for investigation on its behalf.

The Monitoring Officer had appointed Mr D Milne to act as the Investigating Officer. On completion of his investigation, the Monitoring Officer was required by the Standards Committee (England) Regulations 2008 to refer the report to a meeting of the Standards Committee (or a sub-committee) for it to consider the findings of the report, so that it may make a decision in accordance with Regulation 17 of the Regulations.

The report of the Investigating Officer found that there was no failure to comply with the Code of Conduct on the grounds that it related to an activity by Councillor R J Frost in a private capacity.

The Investigating Officer's report highlighted the definition of 'official capacity' under the 2007 Code of Conduct was construed as:

- Conducting the business of your Authority or office; or
- Acting, claiming to act, or giving the impression that you are acting as a representative of your Authority.

Although Local Government Act 2000 was amended by Section 183(4) of the Local Government and Public Involvement in Health Act 2007 to redefine the definition of 'official capacity' to extend further into the private lives of Members, this particular provision had yet to be brought into force in England (although it was in force in Wales).

The Solicitor to the Council advised that the Sub-Committee had two options open to it in respect of the Investigating Officer's report, which were to either accept the finding of the report that the subject member had not failed to comply with the Code of Conduct or refer the matter for consideration at a meeting of the Standards (Hearing) Sub-Committee under Section 18 of the Regulations.. The option of referring the matter to the First-Tier Tribunal (Local Government Standards in England) it was noted was no longer available following the coming into force of provisions in the Localism Act 2011.

The Committee was advised that the a previous attempt to consider the Investigating Officer's report had fallen inquorate following the withdrawal of a member of the Sub-Committee after having taken the advice of the Monitoring Officer and Solicitor to the Council. The member concerned had received anonymous additional documentation relating to the case and had approached the Solicitor to the Council on whether the evidence was admissible at the consideration meeting.

The Monitoring Officer had subsequently asked The Solicitor to the Council to advise on how the additional information should be treated and he, in turn had sought assistance from Standards for England. The Solicitor to the Council had advised that in his view that the additional documentation could not be considered by the consideration meeting under Regulation 17, although the Standards (Hearing) Sub-Committee would be able to receive it if the matter was referred to a hearing, under Regulation 18.

The Investigating Officer informed the Sub-Committee that he had been given sight of the additional documentation, two screen prints of Facebook postings purporting to be from the subject member, prior to the meeting in keeping with the advice given by the Solicitor to the Council. It was his conclusion that nothing in the additional documentation, even if it could be verified as a matter of evidence, would give him cause to change his findings.

- RESOLVED: (a) That in accordance with the provisions of Section 17(1)(a) of the Regulations, the Investigating Officers finding of no failure to comply with the Code be accepted.
- (b) That a Written notice of the finding be given in accordance with Regulation 17(3)(a) of the Standards Committee (England) Regulations 2008.
- (c) That a notice be published in at least one newspaper circulating in the area of the authority in accordance with Section 17(3)(b), unless the member who was the subject of the allegations requests otherwise.

The meeting ended at 6.40 pm.