



## South Lakeland District Council Standards Hearing Sub-Committee

<b>Meeting Date:</b>	28 June 2012
<b>Report Author:</b>	Matthew Neal, Solicitor to the Council and Deputy Monitoring Officer
<b>Report from:</b>	Debbie Storr, Director of Policy and Resources (Monitoring Officer)
<b>Wards affected:</b>	Not applicable
<b>Key Decision:</b>	Not applicable
<b>Forward Plan:</b>	Not applicable

### Hearing in relation to Case Number 2012/001

#### 1.0 PURPOSE OF REPORT

- 1.1 To consider the Investigating Officer's report into a matter referred by the Standards Assessment Sub-Committee for local determination.

#### 2.0 RECOMMENDATION

**To consider the investigating Officer's report into alleged breaches of the Code of Conduct and to make a decision on that report in accordance with the Council's procedures for local determination and the Guidance issued by Standards for England and current legislation.**

#### 3.0 BACKGROUND

- 3.1 The Standards Assessment Sub-Committee has referred a matter (case reference 2012/001) for investigation. The Monitoring Officer has appointed Mr. Mike Dudfield, Local Government consultant, as the Investigating Officer. He has investigated the complaint made against a Town Councillor and produced a report. A copy of the report is being circulated with the agenda papers as Appendix 4. The report is confidential at this stage.

#### 4.0 RESEARCH AND CONSULTATION

- 4.1 In accordance with the Council's Procedures, the Councillor the subject of the complaint has been provided with a copy of the Investigating Officer's report and has been requested to identify any elements where he disagrees with any findings of fact. The Councillor's observations on the draft report are set out in Appendix 4(l) to the report of Mr. Dudfield.
- 4.2 The key issues for determination by the Sub-Committee are whether the Councillor:-
  - Failed to treat others with respect (contrary to paragraph 3(1) of the code);
  - Bullied any person (contrary to paragraph 3(2)(b) of the code);

- Conducted himself in a manner which would reasonably be regarded as bringing his office into disrepute (contrary to paragraph 5 of the code).
- 4.3 The conclusions of the Investigating Officer are set out in his report. He considers that there has been a breach of the Model Code of Conduct for Parish and Town Councils (enclosed as Appendix 3) in the following respects:
- Failure to treat others with respect (contrary to paragraph 3(1) of the Code); and
  - Bullying a person (contrary to paragraph 3(2)(b) of the code).
- 4.4 Formal findings are required from the Sub-Committee.
- 4.5 Standards for England issued detailed guidance to assist Standards Committees in dealing with local determinations (enclosed as Appendix 1). Whilst that organisation was abolished with effect from 1 April 2012, the guidance is still relevant. The Council's procedure for local determinations based on the guidance is attached as Appendix 2.
- 4.6 The Investigating Officer will be in attendance at the hearing but does not intend to call any witnesses. The Councillor has indicated that he will be attending the hearing, possibly with representation, but he does not wish to call any witnesses.
- 4.7 The Councillor has indicated that he does not wish any part of the hearing to be in private nor any of the report or relevant documents to be withheld from the public. Based on the information available, it is recommended that the hearing be held in public.

## **5.0 PROPOSAL**

- 5.1 The options available to the Sub-Committee are to make one of the findings as follows:
- (1) That there has been no breach of the Code; or
  - (2) That there has been a breach of the Code but that no action needs to be taken; or
  - (3) That the member has failed to comply with the code and should be:
    - (a) Censured; or
    - (b) Restricted access to the premises and the resources of the authority for a maximum period of 6 months (but ensuring that such restrictions are reasonable and proportionate to the nature of the breach and will not unnecessarily restrict his ability to carry out his duties as a Member of the Council); or
    - (c) Required to submit a written apology or undertake any training or conciliation as specified by the Sub-Committee.

## **6.0 ALTERNATIVE OPTIONS**

- 6.1 The Alternative Options available to the Sub-Committee are set out in paragraph 5(1) to 5(3) of this report.

## **7.0 NEXT STEPS**

- 7.1 The decision of the Sub-Committee will be communicated to the Complainant and the Councillor being the subject of the complaint.

## **8.0 IMPLICATIONS**

### **8.1 Financial and Resources**

- 8.1.1 Dependent on the decision it may be necessary to give notice of the decision in this matter in the Westmorland Gazette. The costs of this are estimated to be in the region of £1,000.

### **8.2 Human Resources**

- 8.2.1 There are no Human Resources issues arising from this proposal.

### 8.3 Legal

- 8.3.1 The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 (the Order) disappplies the old standards regime as from 1 July 2012, other than for resolving outstanding complaints, and brings the new standards regime into force from the same day.
- 8.3.2 In addition, the Order sets out the transitional arrangements for the changeover to the new standards regime under the Localism Act 2011. Complaints which by 1 July 2012 have been investigated by or on behalf of the Monitoring Officer and referred to the Council's Standards Committee may still be determined. However there is no power to impose a suspension.
- 8.3.3 Existing appeals to the First Tier Tribunal and legal proceedings in respect of determined complaints will be continued.

### 8.4 Social, Economic and Environmental Impact

- 8.4.1 No sustainability impact assessment has been carried out. This proposal is considered to have a neutral impact on sustainability.

### 9.0 RISK ASSESSMENT

Risk	Consequence	Controls required
Risk of Challenge to the First Tier Tribunal against any decision of the Sub-Committee	Costs in terms of staff time and legal costs.	Thorough examination of the evidence by the Sub-Committee and determination of the case on its merits should enable the Sub-Committee to make a legally defensible decision.

### 10.0 EQUALITY AND DIVERSITY

- 10.1 Whilst the Councillor has referred to a medical condition which is likely to be a disability for the purpose of the Equality Act 2010, an Equality Impact Assessment is not considered necessary. Enough information about the medical condition is set out in the report to enable the Sub-Committee to determine the matter.

### 11.0 LINKS TO THE CORPORATE PLAN AND PERFORMANCE INDICATORS

- 11.1 There are no links to the Corporate Plan.

### 12.0 CONCLUSION AND EXPECTED OUTCOMES

- 12.1 The Sub Committee is requested to consider the evidence and representations before coming to a decision on the matter.

### APPENDICES ATTACHED TO THIS REPORT

- Standards for England Guidance on Local Investigations and Standards Committee Determinations.
- The Council's Procedure for local determination of allegations about the personal conduct of members
- Model Code of Conduct for Parish and Town Councils
- The Investigating Officer's report and the Appendices A to J to which it refers.

NOTE: In accordance with Section 100B(2) of the Local Government Act 1972, copies of Appendix 4 are excluded from inspection by members of the public as the appendix contains information as described in Schedule 12A of the Act, as amended by the Local Government

(Access to Information) (Variation) Order 2006, as follows:-

Information presented to a Standards Committee or of a Sub-Committee of a Standards Committee set up to consider any matter under Regulations 13 or 16 to 20 of the Standards Committee [England] Regulations 2008, or referred under Section 58[1] of the Local Government Act 2000 (paragraph 7C)

### CONTACT OFFICERS

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### BACKGROUND DOCUMENTS AVAILABLE

Local Government Act 2000 and accompanying Regulations.

### TRACKING

Assistant Director	Portfolio Holder	Solicitor to the Council	CMT	Scrutiny Committee
N/a	N/a	Report author	N/a	N/a
Executive (Cabinet)	Committee	Council	Section 151 Officer	Monitoring Officer
N/a	N/a	N/a	N/a	18 June 2012
Human Resource Services Manager				
N/a				