



Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 1st July 2008

Subject: Local Investigation into a complaint against a Member - Reference: SBE
19277.07

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose Of This Report

1.1 The purpose of this report is to set out the findings of the Investigating Officer in the above case.

2.0 Background Information

2.1 The attached investigator's final report and bundle of evidence are marked as exempt under the Access to Information Procedure Rules to enable the Standards Committee to decide what part of the report, if any, should be discussed in public.

2.2 Access to Information Procedure Rules 10.4.1 and 10.4.2 exempt information relating to any individual and which is likely to reveal the identity of the individual, if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2.3 Procedure Rule 10.4.7c also exempts the deliberations of a Standards Committee or subcommittee in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4), or (5) or 71(2) of the Local Government Act 2000, if and so long as in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2.4 The investigator considers that it is in the public interest to maintain the exemption as the attached Report contains the opinion of the Investigating Officer, which, if the

Report is made public will be disclosed prior to the Committee having had the opportunity of discussing that opinion and forming their own view of it.

- 2.5 The Standards Board for England advises that final reports should be made available for public inspection unless they contain confidential or exempt information as defined by the Local Government Act 1972. The final report is produced at the end of the investigation and will contain the investigator's findings of fact, the investigator's reasoning, the investigator's finding as to whether there has been a failure to comply with the Members' Code of Conduct, and the documents relied on by the investigator in reaching his or her conclusions. The final report is presented to the Standards Committee for them to consider.
- 2.6 The Committee will be aware that at the meeting, they will simply consider the report and will not seek to interview witnesses or take representations from the parties. The committee's role at this stage is to decide whether, based on the facts set out in the report, it agrees with the Investigating Officer's finding or believes there is a case to answer. If the committee agrees that the Code of Conduct has not been breached, they will arrange for a notice to be published. The notice should state the committee's finding, and give reasons for it. In such cases, the member involved is entitled to ask that the notice not be passed to local newspapers. If the committee decides there is a case to answer, the full committee, or an appointed sub-group of the committee, will hold a hearing to make a final determination on whether the Code of Conduct was breached.
- 2.7 If the Standards Committee decides that there has been a breach of the Code of Conduct, the matter will be referred to a hearing. During the pre-hearing process the Standards Committee will decide whether or not any parts of the hearing should be held in private, and whether or not any parts of the report or other documents should be withheld from the public.

3.0 Main Issues

Standards Committee Procedure Rules

- 3.1 Section 5.2 of the Standards Committee Procedure Rules state that:

"Where the Committee receives a report which contains a finding of no failure, it will meet to consider the report and decide whether:

- it accepts the Investigator's finding (a "finding of acceptance"), or
- the matter should be considered at a hearing of the Standards Committee.

At this meeting, the Committee will consider the report; it will not interview witnesses, nor take representations from the parties.

The Committee may make recommendations to the Authority on matters arising from the report."

- 3.2 The Investigating officer is of the opinion that there has not been a breach of the Code of Conduct in this case, although the Standards Committee must either accept this finding at the meeting or refer the matter to a hearing.

4.0 Implications For Council Policy And Governance

4.1 Considering complaints against Members is in accordance with the Council's Corporate Governance Principle 'Good Conduct and Behaviour', as it allows the Standards Committee to monitor the application of the Codes and Protocols.

5.0 Legal And Resource Implications

5.1 There are no legal or resource implications to this report.

6.0 Conclusions

6.1 The Investigating officer is of the opinion that there has not been a breach of the Code of Conduct in this case, although the Standards Committee must either accept this finding at the meeting or refer the matter to a hearing.

7.0 Recommendations

7.1 Members of the Standards Committee are asked to consider:

- Whether they accept the investigating officer's finding of no failure; and
- Whether they wish to make any recommendations to the relevant authority as a result of the complaint and investigation.