

Committee: STANDARDS COMMITTEE

Agenda Item

Date: June 25, 2007

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Title: LEAD OFFICER'S REPORT

**Author: Michael Perry, Assistant Chief Executive, Item for information
01799 510416**

Summary

1. This is a general report on information items which do not appear on the agenda.

Recommendations

2. That the report be noted.

Background Papers

3. None.

Impact

- 4.

Communication/Consultation	None
Community Safety	None
Equalities	None
Finance	None
Human Rights	None
Legal implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

5. In March 2007 I responded to a request from a neighbouring local authority for assistance in carrying out an investigation into an alleged breach of the members Code of Conduct by a member of that authority who was also a member of a parish council within that district.
6. The allegation was that the member concerned had breached the Code of Conduct in connection with an application for planning permission for a residential development which was considered both by the parish and the district council in that
 - (a) He failed to declare a personal and prejudicial interest arising from business dealings between the member concerned and the applicant for planning permission. It was alleged that the business relationship had turned sour and that because of this the councillor had a personal animosity towards the developer.
 - (b) The member concerned improperly used his position to try and secure a disadvantage for the applicant in that notwithstanding the alleged personal and prejudicial interest the member failed to withdraw from the chamber and at district level moved that the planning application be refused (which motion was carried).
 - (c) The member failed to declare a personal and prejudicial interest arising from the fact that his business premises (and I subsequently discovered and also his home) were 110 metres from the proposed development site

Investigation into an alleged breach of the Code of Conduct

7. In the course of the investigation I interviewed the applicant, the applicant's agent, the member concerned and the committee clerk of the district council who serviced the meeting. I also obtained some information from the parish clerk by way of correspondence. Finally I carried out a site visit to ascertain the relationship between the member's properties and the proposed development site.
8. The developer and the councillor were not related in any way. Despite the fact they have had some limited business dealings there was no suggestion that they socialised or that they would class each other as having been friends. In the circumstances I concluded that the relationship between the developer and the councillor was not one which required to be declared by the Code of Conduct which applied at the time. (It was not necessary for me to reach a conclusion as to whether the business dealings could have amounted to a close association for the purposes of the new Code).
9. Having interviewed the parties I was of the view that the councillor did not have any improper motives in seeking to oppose the planning application. The site had been the subject of previous applications which had been refused.

Although the officers had recommended approval subject to conditions it was clearly a finely balanced decision and at the committee meeting officers advised that reasons for refusal in respect of the previous application could be sustained for this application. The arguments put forward by the councillor were strictly planning based. As the decision was contrary to officer recommendation the member concerned was required by his council's constitution to provide evidence in support of the council's decision. The evidence was entirely planning based. I found therefore that the member had not improperly used his position to try and influence a decision and that indeed he had no motive for so doing.

10. When I went to inspect the site I agreed with the complainant's estimate that the councillor's properties were approximately 110 metres from the development site. However the development site is situated at the end of a cul-de-sac which is opposite the entrance to the councillor's business premises. The site was barely visible from the boundary of the business premises and I noted that the building used for the councillor's business had no windows facing the road. The site was not visible from the councillor's home. In interview the developer could not say how he believed his proposed development would have any impact upon the councillor's properties. His agent suggested there may be some additional traffic but did not suggest any other potential impact and certainly no detriment. I formed the view that although the site was a relatively short distance from the councillor's properties, as the site was not visible from them he would not be affected to a greater degree than other people living in the district/parish and that therefore this was an interest which did not need to be declared.
11. In my report I concluded there had been no breach of the Code of Conduct. The report will be presented to the next meeting of the council's Standards Committee which will decide whether to accept my recommendation or whether to call for a hearing. In the event they accept my recommendation then the decision will be published in a newspaper circulating in the district unless the member requests that this not be done.
12. The council concerned did not have funds within its budget to pay for my services in carrying out the investigation. The investigation was therefore carried out on the basis that I can call upon the Monitoring Officer of that authority to carry out an investigation on behalf of this council if the need should arise.

Complaints to the Standards Board

13. A complaint which has been made to the Standards Board regarding an alleged breach of the Code of Conduct by a member of a parish council within this district which was passed to an Ethical Standards Officer has now been referred to me for investigation and determination by this Committee. Standards Board guidance is I should not make the committee aware of the nature of the allegation at this stage but that the committee should be informed that an investigation is being undertaken.

14. The events leading to the allegation occurred prior to the publication of the new member Code of Conduct and will therefore fall to be considered under the old Code.
15. I am currently contacting all relevant parties to arrange interviews and collating documentation which I shall need to refer to. I have indicated to the ethical standards officer that I hope to complete my investigation by 31 August 2007.
16. I have also been informed the Standards Board that a complaint has been made with regard to the conduct of another member of the same council. As yet a decision has not been reached as to whether this will be passed for investigation. Although this complaint post dates the publication of the new model Code, the parish council concerned have not as yet adopted the new model and if the complaint is passed for investigation it will again fall to be dealt with under the old Code.

Risk Analysis

16. There are no risks associated with this report.