

HEARINGS SUB-COMMITTEE

Tuesday, 16th February, 2010 at 6.10 pm
in Committee Room 4 at The Council House, Dudley

PRESENT:-

The Bishop of Dudley (Independent Chairman)
Councillor Tyler and Father A Williams

Officers

Deputy Monitoring Officer (Mr M Farooq) and Mr J Jablonski (Directorate
of Law, Property and Human Resources)

Also in attendance

Ms H Kidd – Investigating officer appointed by the Monitoring Officer

One Member of the public was also in attendance.

1 APOLOGY FOR ABSENCE

An apology for absence from the meeting was submitted on behalf of
Councillor Mrs Martin.

2 SUBSTITUTE MEMBER

It was reported that Father A Williams had been appointed as a substitute
member for Councillor Mrs Martin for this meeting of the Sub-Committee
only.

3 DECLARATIONS OF INTEREST

No member declared an interest in accordance with the Members' Code
of Conduct in respect of any matter to be considered at this meeting.

4 EXCLUSION OF THE PUBLIC AND PRESS

At this juncture the Investigating Officer and member of the public were
asked to leave the meeting whilst the Sub-Committee considered the
issue of whether the public and press should be excluded from the
remainder of the meeting in the light of the exempt information contained
in the report and Appendix to the report submitted.

Arising from the advice given by the Deputy Monitoring Officer, in accordance with the relevant Guidance from the Standards Board, it was

RESOLVED

That the remainder of the meeting be considered in public .

On the Investigating Officer and member of the public being invited to return to the meeting and, following the relaying of the decision of the Sub-Committee to them, a copy of the agenda for the meeting was given to the member of the public present.

5 DETERMINATION OF A COMPLAINT AGAINST FORMER COUNCILLOR JOHN PERRY

A report of the Monitoring Officer was submitted on a complaint brought against former Councillor John Perry regarding an alleged breach of the Members' Code of Conduct.

Attached as an Appendix to the report was the final report of the Investigating Officer – Helen Kidd, Solicitor – setting out her findings on the matter.

An agreed procedure for the hearing had been circulated previously and in accordance with that procedure the Independent Chairman invited those present to introduce themselves and following this explained how the hearing would be run.

Prior to consideration of the first stage in the procedure – that of making findings of fact – the Deputy Monitoring Officer raised the issue of the non-attendance of Mr Perry and ,in accordance with the Standards Committee (England) Regulations 2008 advised the Sub-Committee that in accordance with the regulations they needed to determine whether or not to proceed in the absence of Mr Perry.

In this regard consideration was given to paragraph 18(7) of the Regulations and advice given that if the Sub-Committee considered that there were no sufficient reasons for the failure to attend it would be proper for the hearing to continue.

During consideration of this matter reference was made to the correspondence that had been sent to Mr Perry, including the required documentation and notice given regarding the date and time of the hearing, and it was considered that he had had every opportunity to make representations to the Sub-Committee regarding not only attendance at the meeting but also the documentation to be considered. It was noted that no response had been received from Mr Perry to any of the correspondence sent to him by e-mail and post in connection with the hearing.

Arising from the advice given the Sub-Committee agreed that the hearing continue in the absence of Mr Perry.

(a) Matters of Fact

The Sub-Committee then gave consideration to paragraph 4 of the Appendix to the report submitted – the evidence gathered and the Investigator’s consideration of it – and the summary of the material facts set out at paragraph 5 of the Appendix.

Following consideration of the information contained in paragraphs 4 and 5 of the Appendix, and the asking of questions to and consideration of responses from the Investigating Officer including confirmation from her that Mr Perry had not challenged any part of the information submitted, the Investigating Officer and member of the public were asked to leave the meeting whilst the Sub-Committee determined the issue of the matters of fact.

Following consideration of this issue the Investigating Officer and member of the public were invited to return to the meeting and the Independent Chairman informed them that the Sub-Committee had determined that they agreed with the summary of the material facts as set out in paragraphs 5.1 to 5.8 of the Appendix which included that

- Councillor Perry failed to respond to five e-mails and a letter from the complainant/his wife during the period mid March 2009 onwards.
- Councillor Perry failed to return telephone messages left on his telephone by the complainant.
- Councillor Perry failed to attend any meetings of North Dudley Area Committee and the Select Committee on Regeneration, Culture and Adult Education in the municipal year 2009/10.

Having determined the facts of the matter the Sub-Committee then went on to consider whether Mr Perry had failed to follow the Code of Conduct.

(b) Consideration of whether there had been a failure to follow the Code of Conduct

In regard to this issue reference was made to paragraph 6 of the Appendix to the report submitted – reasoning as to whether there have been failures to comply with the Code of Conduct – and particular reference was given to paragraphs 6.2 and 6.3 which referred, respectively, to paragraphs 3(1) of the Code of Conduct which stated that you must treat others with respect and paragraph

5 of the Code of Conduct which states that you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute. Paragraph 7 of the Appendix set out the findings of the Investigating Officer.

As regards the findings, the Deputy Monitoring Officer referred to verbal guidance recently received from the Standards Board who had indicated that the Board had never regarded failure to answer calls, e-mails etc as amounting to a breach of the Code. However in this case the facts and findings highlighted other issues and therefore it was the totality of the various issues that the Members needed to consider.

The Investigating Officer and member of the public were then asked to leave the meeting whilst the Sub-Committee considered the issue of whether there had been a failure to follow the Code of Conduct.

Following consideration the Investigating Officer and member of the public were invited to return to the meeting and the Chairman reported that the Sub-Committee considered that Mr Perry had breached paragraph 3(1) of the Code of Conduct and that, taking into account the totality of the behaviour referred to in paragraphs 7.2 and 7.3 of the Appendix to the report submitted, he had also breached paragraph 5 of the Code of Conduct.

(c) Consideration of the Issue of Sanctions in the light of a failure to follow the Code of Conduct

Having determined that Mr Perry had breached paragraphs 3(1) and 5 of the Code of Conduct consideration was then given to whether a sanction should be applied and if so what form any sanction should take.

On this matter the Deputy Monitoring Officer referred to Guidance on this issue and informed the Sub-Committee that as Mr Perry had recently resigned as a Councillor the only sanction available, should they wish to adopt it, would be to censure him.

The Investigating Officer and member of the public were then asked to leave whilst the Sub-Committee considered the issues above relating to sanctions.

Arising from consideration of these matters the Investigating Officer and member of the public were invited to return to the meeting and the Chairman reported that the Sub-Committee had agreed to apply a sanction and that the sanction would be that of censuring Mr Perry.

Arising from this finding consideration was given to the notification of the finding in accordance with paragraph 20 of the Regulations and in this regard it was noted that a written notice of the finding and the reasons for it would be given to the relevant persons and bodies indicated in the Regulations; that a summary of the notice would be published in at least one newspaper circulating in the area of the Authority and that, as determined at the meeting, a copy of the summary of the notice would also be placed on the web page of the Authority.

In his concluding remarks the Independent Chairman thanked the Investigating Officer, Ms Kidd, for the quality of the investigation report submitted and for her responses at the meeting and he also thanked the complainant for bringing the matters complained of to the attention of the Authority.

RESOLVED

That the Sub-Committee having found that there had been a breach of paragraphs 3(1) and 5 of the Code of Conduct, in the light of the failure to respond to constituents and failure to attend identified meetings which, taken together, amount to a significant failure to fulfil the key roles of a Councillor whilst in receipt of the Members allowance, censure former Councillor John Perry.

The meeting ended at 7.40 p.m.

CHAIRMAN