

Public Document Pack
Standards Committee Agenda

Thursday, 8 December 2016 at 10.00 am

Council Chamber, Aquila House, Breeds Place, Hastings, TN34 3UY.

Please enter the building via the Tourist Information Centre entrance.

For further information, please contact Emily Horne on 01424 451719 or email:
ehorne@hastings.gov.uk

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1.	Apologies for Absence	
2.	Declarations of Interest	
3.	Minutes of the Assessment Committee meeting held on 09 November 2016	To follow
4.	Complaint - SB/06/01/2016 (Christine Barkshire-Jones, Chief Legal Officer)	1 - 44
5.	Additional Urgent Items (if any)	

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Agenda Item 4



Report to: Standards Committee

Date of Meeting: 8th December 2016 at 10am

Report Title: Complaint – SB/06/01/2016

Report By: Christine Barkshire-Jones
Chief Legal Officer

Purpose of Report

The Standards Committee has to decide what action to take in respect of a complaint alleging several breaches of the Code of Conduct.

Recommendation(s)

1. Members are requested to decide appropriate action in relation to the complaint.

Reasons for Recommendations

The Monitoring Officer has a statutory duty to deal with the Standards process.

Background Information:

1. Appendix A - Complaint
2. Appendix B - Report of Alex Oram of Ch&I Associates which includes the transcript of Councillor Atkins' speech at SEG's AGM. Not for publication. This report is restricted and contains exempt information by virtue of Paragraph 1.2 of Schedule 12A to the Local Government Act 1972.

Wards Affected

None

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	Yes
Anti-Poverty	No

Additional Information

Appendix A - Complaint

Appendix B - Report of Alex Oram of Ch&I Associates and transcript of Councillor Atkins' speech at SEG's AGM Not for publication. This report is restricted and contains exempt information by virtue of Paragraph 1.2 of Schedule 12A to the Local Government Act 1972.

Officer to Contact

Christine Barkshire-Jones

cbarkshire-jones@hastings.gov.uk

01424 451731

Private and Confidential

Complaint Reference: SB/06/01/2016

Member subject of the complaint: Councillor Liam Atkins

Complainant: Councillor Kim Forward

Relevant paragraphs of the Code of Conduct:

3(1) - You must treat others with respect.

4a – You must not disclose information given to you in confidence.

5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6a – You must not use or attempt to use your position as a member to confer on or secure for yourself or any other person an advantage or disadvantage.

6b – You must, when using or authorising the use of the resources of your authority –

(ii) – ensure that such resources are not used improperly for political purposes (including party political purposes);

Protocol for Relationship between Members and Officers

9 – Members and officers must at all times observe the Protocol.

99 – Members and officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

120. A member who is unhappy about the action taken by, or conduct of, an officer should:

Avoid personal attacks on, or abuse of, the officer at all times

Ensure that any criticism is well founded and constructive

Never make a criticism in public and

Take up the concern with the officer privately.

Summary of Allegation

Councillor Liam Atkins was invited to the Save Ecclesbourne Glen's (SEG's) public meeting and Annual General Meeting (AGM).

Councillor Atkins emailed the Director of Operations on 30th October 2015 stating "I'd rather not do this, but could I arrange a briefing on these issues nonetheless". Councillor Atkins met with three council officers, namely the Assistant Director of Environment and Place, Assistant Director of Housing and Built Environment and the Chief Legal Officer on 11th November 2015.

SEG's AGM was held at the White Rock Hotel on Sunday 15th November 2015. Councillor Atkins attended with Councillor Cooke. He addressed the meeting which was recorded in its entirety by SEG. On 17th November a copy of the recording was posted on SEG's Facebook page which is accessible to any Facebook user. The recording was also posted on YouTube on 19th November 2015.

On the 6th January 2016 the Monitoring Officer received a complaint concerning Councillor Atkins' speech at SEG's AGM from Councillor Kim Forward.

The relevant parts of the Code alleged to have been breached are detailed above.

Councillor Forward states that Councillor Atkins "spoke about Hastings Borough Council's Planning Department and its officers in negative and derogatory terms and where he appeared to divulge details of a confidential briefing he had received from officers".

On receipt of the complaint the Deputy Monitoring Officer arranged for the transcript of Councillor Atkins' speech to be professionally transcribed. This is to be found at Appendix B

Complaint

Criteria for decisions by the Standards Committee.

Initial Tests

1. Before assessment of a complaint begins, the Standards Committee should be satisfied that the complaint meets the following tests:-
 - (a) it is a complaint against one or more named members of the Council
 - (b) the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time

- (c) the complaint, if proved, would be a breach of the Code under which the member was operating at the time of the alleged misconduct.
- 2. If the complaint fails one or more of the tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.
- 3. If the complaint passes these tests, the Standards Committee will go on to consider whether to take no action, whether to refer the complaint for investigation or whether to refer it to the Monitoring Officer or (Deputy) for other action, such as a full hearing.

Application of Initial Tests

- 4. In order to proceed, the Standards Committee has to consider the following:
 - (a) Councillor Atkins is an elected member of Hastings Borough Council.
 - (b) Evidence is provided by the transcript of the recording – Appendix B and the video recording.
 - (c) Whether the conduct complained of would constitute a breach of the Code of Conduct.
- 5. The first question is easily answered. The second happened at the weekend. However, the role of councillor does not just apply between office hours. Councillor Atkins was invited to attend as an elected councillor of Hastings Borough Council, the then Leader of the Conservative Group and spoke about information he had obtained in that capacity.
- 6. The Assessment Sub-Committee met on 22nd February 2016 and considered if the complaint met the initial tests as set out in paragraph 1(a), (b) and (c) of the Chief Legal Officer and Monitoring Officer's report. It was agreed that the complaint did meet part (a), (b) and (c) of the tests.
- 7. The Assessment Sub-Committee decided that the initial assessment had shown that there was a case to answer. The Assessment Sub-Committee felt that the evidence was sufficient to warrant an investigation and resolved that the Monitoring Officer appoint an external investigator. If the report of the external investigator suggested a breach of any part of the Code, the Monitoring Officer or Deputy are to arrange a further assessment hearing to decide whether to arrange a public hearing to allow the Standards Committee to decide what action to take and allow both the complainant and Councillor Atkins to make their own submissions.

8. Alex Oram of Ch&I Associates was appointed by the Monitoring Officer to conduct an investigation into the complaint against Councillor Atkins. The decision was taken to conduct the investigation after the local election on 5th May 2016 due to the nature of the complaint so as not to take place during Purdah. Alex Oram's report is attached in full at Appendix B and is dated 1st September 2016. Alex's report is restricted and contains exempt information by virtue of Paragraph 1.2 of Schedule 12A to the Local Government Act 1972 as the interviews with Council Officers were undertaken on a confidential basis.
9. The Assessment Sub-Committee met on 9th November 2016 to decide whether to proceed to a public hearing. There was a delay in scheduling that Assessment Sub-Committee meeting due to difficulties with member's availability. Councillor Atkins addressed the Assessment Sub-Committee and made his submission. The Assessment Sub-Committee and Independent Persons watched the DVD recording. They indicated that they felt there was a breach of the relevant provisions of the Code of Conduct and decided to proceed to a public hearing on 8th December 2016 to decide what action to take and allow the complainant and Councillor Atkins to make their submissions. Alex Oram, the external investigator will also be in attendance to present his report.

Decisions of the Standards Committee

10. The Standards Committee is required to reach one of the following decisions;
 - (a) to decide what action to take; or
 - (b) any other action as appropriate; or
 - (c) No further action.
11. Members are asked to consider appropriate sanctions.
Sanctions suggested by Alex Oram, the external investigator:
 - (a) Training on the Code.
 - (b) Meeting with the relevant officers to offer his apology personally.Further sanctions available:
 - (c) Placing a notice in the local newspaper to say there has been a breach of the Code.
 - (d) A Censure to be issued by the Monitoring Officer.

- (e) Instruct the Monitoring Officer to arrange training, mediation or other appropriate remedy.

The Decision and the Reasons for the Decision

12. The Standards Committee will give a written summary of their decision which should include:-

- (a) the main points considered;
- (b) the conclusions on the complaint;
- (c) the reasons for the conclusions.

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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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