

# MINUTE NUMBERS 190

## Minutes of Accounts & Audit Sub-Committee

Meeting Date: Wednesday, 1 August 2018 starting at 10am  
Present: Councillor S Hirst (Chairman)

Councillors:

A Knox  
R Sherras

In attendance: Chief Executive, Head of Legal and Democratic Services (Monitoring Officer), and Investigating Officer.

Also in attendance: Councillors S Bibby, P Elms, M French, T Hill, K Hind, S Hind, S Knox, M Robinson, R Thompson.

### 185 APOLOGIES

There were no apologies for absence from the meeting.

### 186 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTEREST

There were no declarations of pecuniary and non-pecuniary interest.

### 187 APPOINTMENT OF CHAIRMAN

RESOLVED: That Councillor Stuart Hirst be confirmed as Chairman of this Sub-Committee.

### 188 EXCLUSION OF PRESS AND PUBLIC

It was requested by the Subject Member that a member of the public, Mr John Hill, be allowed to stay in the meeting to offer advice to the Subject Member. Members discussed this issue and confirmed they would abide by the Council's Standing Orders. Mr Hill left the meeting at this point.

RESOLVED: That by virtue of the following items of business being exempt information under Part 1 of Category 1 and 2 of Schedule 12A of the Local Government Act 1972 and after consideration of the public interest the press and public be now excluded from the meeting.

At this point in the meeting the Chairman stressed this was not the hearing but a meeting to confirm the procedure to follow when the hearing took place.

An objection was made to Councillor Hirst acting as Chairman or sitting on the Sub-Committee panel hearing as it was alleged by the Subject Member that he did not pass the bias test and the Subject Member explained his reason for this. Several Councillors were given consent to address the Committee and commented upon this issue. The Chairman noted and rejected the reasoning relating to bias and commented that he felt it was his duty and responsibility as the Chairman of Accounts and Audit Committee to act as Chair. The other two Members on the Sub-Committee confirmed this course of action.

### 189 HEARING PANEL – PROCEDURAL MATTERS

The Chief Executive submitted a report asking the Members of the Sub-

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Committee to consider the procedural matters set out in the report in preparation for a hearing regarding a complaint that had been received relating to the conduct of a Councillor. After consulting an Independent Person the Monitoring Officer had referred the complaint to the Council's Solicitor to investigate. The report of the Investigating Officer concluded that there was evidence of a breach of the Council's Code of Conduct. The Monitoring Officer in consultation with the Independent Person had to consider whether the matter should either be referred to the hearing panel or be dealt with by local resolution. As local resolution was not considered appropriate by either party, the Council's procedure requires the matter to be referred to the Sub-Committee.

The report outlined various issues with regard to the Council's procedure for dealing with Code of Conduct complaints including utilising additional guidance; whether the hearing should be in Part 2; calling witnesses to give evidence and how that evidence would be tested; the role of the Independent Person; representation at the hearing and additional matters that included costs and bias.

With regard to the use of additional guidance, it was agreed that the procedure rules for Standards Committee hearings attached at Appendix 2 and taken from the Monitoring Officer's handbook would be used.

It was also agreed that any Sub-Committee meetings relating to the complaint should be held in Part 2, as the matters to be considered involved exempt information and the public interest lay in not allowing public access.

Members considered whether additional witnesses could be called as the Subject Member had requested in his statement. Members discussed this issue and agreed that additional willing witnesses could be called as long as their written statements, which would be disclosable to the Investigating Officer and complainant, were submitted within 28 days ie on or before the 30 August 2018. In addition, as an alternative consideration should be given to agreeing facts. It was resolved that the Sub-Committee would be reconvened to consider the additional statements received and determine arrangements for the Investigating Officer to be given time to respond. At the request of a Member of the Sub-Committee it was also agreed that an additional witness be asked to attend when the complaint was determined. The procedure for dealing with witnesses would be as outlined in the Monitoring Officer's handbook (Annex 2). The Investigating Officer reminded the Committee that she had reserved her position to call more witnesses subject to considering the Subject Members additional witnesses. It was confirmed that the Investigating Officer could be questioned as well as the witnesses but that all questioning would be in an informal context to assist the Committee in their deliberations and would not take the form of cross-examination/re-examination.

With regard to the role of the Independent Persons, it was confirmed that Mr Taylor would be invited to attend the hearing in order that the panel could take his views into account before making a decision and Mr Dearing would also be invited to attend. It was also confirmed that the Independent Persons were under no obligation to give their views in writing. The Monitoring Officer explained the role of the Independent Person in that the Sub-committee had to have regard to the views of an Independent Person prior to reaching their decision. It was confirmed that the Subject Member had met one of the Independent Persons.

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With regard to representation at the hearing the Council's procedure permits this but it was clarified that if a representative was to be used, then either the representative or the party should address the panel and ask questions.

Additional matters had been raised relating to bias and costs. The Sub-Committee were informed that there was no provision for costs for either side. An issue was raised by the Subject Member that in his opinion the Monitoring Officer did not pass the bias test as she was too close to the whole process and that the whole issue of the complaint should be reconsidered by the Accounts and Audit Committee following an adjournment of this hearing. The Sub-Committee discussed this issue and resolved that the hearing should go forward to the Sub-Committee as required by the Council's procedure.

The Subject Member again requested to have a consultation with the Independent Person that he had not met with. Following clarification from the Monitoring Officer with regard to the role of the Independent Persons and the separation kept so as to avoid conflict, the Chief Executive reiterated that because the independent Person would listen to the evidence at the Sub-Committee hearing and then give his views in his opinion it was inappropriate for the Subject Member to speak to either this person or any of the Sub-Committee Members prior to that hearing.

RESOLVED: That Sub-Committee

1. agreed to have regard to the guidance outlined in the procedure rules based on Standards Committee hearings from the Monitoring Officer's handbook set out in Appendix 2;
2. agreed that the Sub-Committee hearings should be held in Part 2;
3. afforded the Subject Member, 28 days to submit additional written witness statements and any additional written material following which the Sub-Committee would reconvene to consider these statements and decide which witnesses were required and how much time the Investigating Officer should be given to respond to the additional evidence;
4. agreed that both Independent Persons can attend the Sub-Committee hearing, to assist the Sub-Committee and to observe;
5. noted the advice regarding representation at the hearing; and
6. confirmed that there was no provision for costs on either side and noted the representations made relating to bias and an alternative procedure and resolved to go forward to a Sub-Committee panel hearing of the complaint in accordance with the Council's adopted procedure.

190 LOCAL HEARING RELATING TO A BREACH OF THE COUNCIL'S CONDUCT

The Chief Executive submitted a report for the Sub-Committee's information outlining the background to the complaint relating to the conduct of a Council Member.

RESOLVED: That the report be noted.

The meeting closed at 11.27am.

If you have any queries on these minutes please contact Diane Rice (414418).