

NORTH HERTFORDSHIRE DISTRICT COUNCIL

STANDARDS COMMITTEE

MINUTES

**Meeting held at the Council Offices, Gernon Road, Letchworth Garden City
on Monday, 23 February 2009 at 6.30p.m.**

PRESENT: *Mr N. Moss (Independent Chairman), Mr P. Chapman (Independent Vice-Chairman), Mr S. Gillies and Mr P. Joester.
Town Councillor C. Harlow and Parish Councillor M. Goddard.
District Councillors Judi Billing, S. Bloxham, David Kearns, Bernard Lovewell,
M.R.M. Muir and L.W. Oliver.*

IN ATTENDANCE: *Corporate Legal Manager (Deputy Monitoring Officer – representing NHDC),
Senior Lawyer (Deputy Monitoring Officer – Legal Advisor to the Committee)
and Senior Committee and Member Services Officer (Clerk). The appellant
and the appellant’s representative.*

1. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Parish Councillor B. Hillan and District Councillor A. Bardett.

2. NOTIFICATION OF OTHER BUSINESS

No other items were presented for consideration.

3. DECLARATIONS OF INTEREST

The Chairman reminded Members that, in line with the Code of Conduct, any Declarations of Interest now needed to be declared immediately prior to the item in question. There were no declarations.

4. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the said Act (as amended).

5. APPEAL AGAINST DESIGNATION OF POST AS POLITICALLY RESTRICTED

The Chairman welcomed those present to the meeting and invited members of the Committee, the Deputy Monitoring Officer (Legal Advisor to the Committee) (KW), the Deputy Monitoring Officer (representing the Council) (KS), the appellant and the appellant’s representative, to introduce themselves. He confirmed that the meeting was quorate and the fact that the law required the full Standards Committee to consider the appeal (ie. the matter could not be delegated to a Sub-Committee).

The Chairman explained the reason for the hearing, in that the Committee was required to consider an appeal against the designation of a post as “Politically Restricted”. He outlined the procedure for the hearing, as provided to all parties in advance of the meeting.

The Chairman commented that this was the first hearing of its kind for the Authority, and that there was no statutory guidance and no case law. Notwithstanding those factors, the Committee’s purpose would be to ensure that the principles of natural justice were applied. The Committee’s decision would include full reasons and would be conveyed to the appellant in writing as soon as possible after the hearing.

The Chairman explained that the Committee would approach its task by identifying the legislation the subject of the appeal, namely the Local Government and Housing Act 1989 (Section 2), as amended by the 2001 Statutory Instrument, which updated the Act to take

account of the current executive arrangements. Having done that, the Committee would then consider and decide on the content of the appellant's post. Once that that decision was reached, the Committee would then go on to decide whether or not the post should be listed as "Politically Restricted" when tested against the legislation.

The Chairman advised that the Committee would be willing to consider any relevant representations about any other salient points, subject to an explanation of why the party raising them believed them to be relevant. He stated that the Committee would be hearing the Council's case first, rather than the appellant's, because it would be more straightforward for it to understand what the appellant was appealing against. He stressed that this would not affect the opportunity for both parties to argue points or make representations.

At the Chairman's request, the Legal Advisor (KW) summarised her report. She then responded to a number of questions raised by members of the Committee, the Council's representative (KS) and the appellant / appellant's representative.

The Chairman invited the Council's representative (KS) to summarise her Certificate of Opinion (as Deputy Monitoring Officer) that the post in question was politically sensitive and should therefore be "Politically Restricted", in accordance with the Local Government Officers (Political Restrictions) Regulations 1990. She then responded to a number of questions raised by members of the Committee and the appellant / appellant's representative.

The Chairman invited the appellant / appellant's representative to summarise their case. They then responded to a number of questions raised by members of the Committee and the Council's representative (KS).

The Council's representative (KS) and the appellant / appellant's representative made their closing submissions to the Committee.

The Legal Advisor (KW) summarised the main legal points raised during the hearing and responded to some legal questions raised by the Committee.

The Council's representative (KS), the appellant, the appellant's representative and the clerk retired from the room at 8.30pm, leaving the Committee to make its decision, supported by the Legal Advisor (KW). The Chairman stated before the parties retired that the Legal Advisor (KW) would take no part in the Committee's decision-making.

At 10.10pm, the Council's representative (KS), the appellant, the appellant's representative and the clerk returned to the room, and the Chairman announced the decision. It was

RESOLVED: That the appeal against the decision by North Hertfordshire District Council to list the appellant's post as "politically restricted" be allowed.

REASONS FOR DECISION:

1. The Standards Committee reached its decision having considered all the evidence submitted by the Council and by the Appellant.
2. The Committee had considered the legislation [the Housing and Local Government Act 1989 section 2(3)(a)] and a circular letter from the Independent Adjudicator dated August 2002 and had decided that its task comprised two stages.
 - (i) To consider and reach a decision on the content of the Appellant's post;
 - (ii) To test that decision against the restrictions applicable to a Restricted Post.
3. In dealing with the first stage (the content of the Appellant's post), the Committee decided that the evidence indicated that the position for which the Appellant had applied, and to which he had been appointed, had not been regarded initially by the Council as being of a level that brought it within the ambit of Section 2 of the Local Government and Housing Act 1989 (as amended).
4. The Committee decided that the Appellant's assertion, unchallenged by evidence, that his actual duties, although consistent with the thrust of the job description, fell even further short of the legislative threshold for the post to be politically restricted.

5. Applying that decision to stage (ii) (testing the contents of the Appellant's post against the restrictions applicable), the Committee decided, having regard to the Appellant's evidence, that his duties did not involve giving the advice described in the legislation and further considered in the Adjudicator's letter.
6. It followed that the "regular basis" test in Section 2(3)(a) of the 1989 Act was not passed.
7. Therefore, the Committee decided to allow the appeal. This decision was unanimous.

6. MINUTES

RESOLVED: That the Minutes of the meeting of the Committee held on 15 December 2008 be approved as a true record of the proceedings and signed by the Chairman.

7. CHAIRMAN'S ANNOUNCEMENTS

The Chairman invited the Deputy Monitoring Officer (KS) to make two announcements:

- A report back on Parish Council responses to the request for the return of forms relating to the Code of Conduct undertaking and register of interests would be submitted to the next meeting of the Committee in June 2009;
- A Questionnaire from the Standards Board was supplied to all independent Members of the Committee. The Standards Board had requested that a similar questionnaire be completed by one of the District Council Members serving on the Committee. Councillor L.W. Oliver volunteered to complete the questionnaire.

The meeting closed at 10.20pm.

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Chairman