

DECISION NOTICE: NO FURTHER ACTION

Reference MO/1/28

Complaint

On 8th September 2010, a Review Sub-Committee of the Standards Committee of this authority considered a request for a review of a decision by the Assessment Sub-Committee taken on 20th April 2010 regarding an allegation of misconduct by Councillor David Tutt. The complainant in the case was Mr. Kevin Allbeury.

On 20th April 2010, a Sub-Committee of the Standards Committee of this authority had considered a complaint from Mr. Allbeury concerning the alleged conduct of Councillor Tutt, a member of Eastbourne Borough Council. The context of the complaint was the placing of a bench in Heron Close in 2002 which the complainant considered had the effect of causing anti-social behaviour. He sought a decision from the authority not to replace the bench following its removal.

The complainant alleged breaches of paragraph 3(1) and paragraph 5 of the Code of Conduct respectively, namely a failure to treat others with respect and a failure to conduct oneself in a manner which could reasonably be regarded as bringing one's office or authority into disrepute. The allegation in relation to paragraph 5 was that Councillor Tutt failed to provide a full version of the facts surrounding the bench's removal and the problems caused by it to a meeting of the Joint Action Group so as to equip that Group to determine whether a plan of action could be devised to prevent further anti-social behaviour whilst still reinstating the bench. It was also alleged that by letter Councillor Tutt attributed power to the Joint Action Group that they did not have, in so doing exceeded his powers and thereby bringing his authority or authority into disrepute. The complainant further alleged that the member complained of then failed to provide an explanation of his actions, thereby failing to treat him with respect.

Decision

The Review Sub-Committee first considered whether the decision of the Sub-Committee was reasonable, taking into account the information that was before that original Committee as well as the approved assessment criteria. The Review Sub-Committee were of the view that the original Assessment Sub-Committee's decision was reasonable. The second test to be applied was whether any new evidence obtained since the original decision demonstrated that the decision of the Assessment Sub-Committee was incorrect. Having considered the submissions of Mr. Allbeury dated 19th and 28th May 2010 respectively, the Review Sub-Committee were not of the view that any new additional material had been adduced to demonstrate that the original decision of the Sub-Committee was incorrect.

In accordance with Sections 57A(2) and 57B(4) of the Local Government Act, 2000 as amended, the Review Sub-Committee of the Standards Committee therefore decided to take no further action in relation to the complaint.

This Decision Notice will be sent to the complainant, to the member against whom the allegation was made, to the Leader of their party and to the Monitoring Officer as well as to the Chair of the Standards Committee.

Terms of reference

The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000, which now provides for the local assessment of new complaints that members of relevant authorities may have breached the Code of Conduct. The Standards Committee (England) Regulations 2008 relate to the conduct of authority members and the requirements for dealing with this.

The regulations set out the framework for the operation of a locally based system for the assessment, referral and investigation of complaints of misconduct by members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities (Standards Committees) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

In making its decision, the Sub-Committee had regard both to its own terms of reference and also to statutory guidance on local assessments which has been produced by the Standards Board for England.

Signed: **Dated:**

Approved by Trevor Elliott, Independent Chair of the Sub Committee of the Standards Committee at Eastbourne Borough Council, and signed with his authority by the Deputy Monitoring Officer.