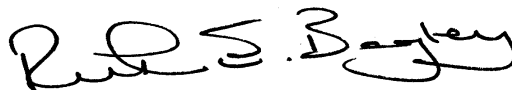


Date of issue: 5th December 2011

| | |
|---|--|
| MEETING | STANDARDS (DETERMINATION) SUB-COMMITTEE |
| | CO-OPTED/INDEPENDENT MEMBERS Mr Field (Chair), Mr Ashmore and Mr Sunderland |
| | ELECTED MEMBERS:- Councillors Basharat and Coad |
| DATE AND TIME: | TUESDAY, 13TH DECEMBER, 2011 AT 6.30 PM |
| VENUE: | COUNCIL CHAMBER, TOWN HALL, BATH ROAD, SLOUGH |
| DEMOCRATIC SERVICES OFFICER: (for all enquiries) | CATHERINE MEEK 01753 875011 |

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



RUTH BAGLEY
Chief Executive

AGENDA

PART 1

AGENDA
ITEM

REPORT TITLE

PAGE

WARD

Apologies for absence.

AGENDA
ITEM

REPORT TITLE

PAGE

WARD

- | | | | |
|----|---|--------|-----|
| 1. | Declarations of Interest (Members are reminded of their duty to declare personal and personal prejudicial interests in matters coming before this meeting as set out in the Local Code of Conduct) | | |
| 2. | Minutes of the previous Meeting of the Sub-Committee held on 18th April 2011 | 1 - 4 | |
| 3. | Alleged Breach of Local Code of Conduct - Councillors S Chaudhry, P Choudhry, S Dhaliwal, Rasib and Sohal (SBC 27/2011) | 5 - 58 | All |

Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Special facilities may be made available for disabled or non-English speaking persons. Please contact the Democratic Services Officer shown above for further details.

Standards (Determination) Sub-Committee – Meeting held on Monday, 18th April, 2011.

Present:- **Co-opted Independent Members:-**

The Reverend Paul Lipscomb (Chair) and Mr Mike Field

Elected Members:-

Councillors Maclsaac

Also present:- Councillors Dhillon (Subject member), Kuldip Channa (Investigating Officer), Shabana Kauser (Administrator) and Maria Memoli (Monitoring Officer)

Apologies for absence:- Dr Henna Khan

PART I

6. Declarations of Interest

The Reverend Paul Lipscomb and Councillor Maclsaac declared that they both knew Mr Cryer who was in attendance at the meeting to assist Councillor Dhillon in presenting his case.

7. Minutes of the previous Meetings of the Sub-Committee held on 2nd February 2011 and 7th March 2011

The minutes of the Sub-Committee meetings held on 2nd February 2011 and 7th March 2011 were approved as a correct record.

8. Alleged Breach of Local Code of Conduct - Councillor Balwinder Dhillon (SBC 2010/23)

The Sub-Committee met to determine an allegation made by Mr Steve Wagner former employee of the Council, that Councillor Balwinder Dhillon had failed to comply with the Council's Local Code of Conduct. The complaint had been referred for investigation by the Standards (Assessment) Sub-Committee on 30th July 2010. In accordance with the arrangement agreed by the Standards Committee, Monitoring Officer had delegated the conduct of the investigation to Kulip Channa (Assistant Solicitor, Litigation) i.e. Investigation Officer.

At the Chairs invitation introductions were made by all participants following which he drew attention to the procedure that would be followed during the hearing and all parties confirmed that they were aware of it. The Investigating Officer, Councillor Dhillon and the Monitoring Officer agreed that there were no grounds for the exclusion of the press and public from the meeting.

Standards (Determination) Sub-Committee - 18.04.11

The Investigating Officer's final written report outlining the result of her investigation and her conclusions were submitted together with Councillor Dhillon's written response thereto. The general summary of the complaint and alleged breaches of the Code identified by the Investigating Officer were that

- (1) Contrary to paragraph 3 (1) of the Local Code of Conduct Councillor Dhillon had failed to treat the complainant with respect, and
- (2) Contrary to paragraph 3 (2) (b) the subject member had treated the complainant in a bullying and threatening manner.

The Investigating Officer presented her report and called Mr Wagner as a witness to the hearing. All parties were given an opportunity to ask questions for clarification.

Mr Cryer, on behalf of Councillor Dhillon, presented his case. Sub-Committee Members and the Investigating Officer were given the opportunity to ask questions to clarify the evidence submitted.

On completion of the presentation of both cases, the Chair and members of the Sub-Committee confirmed that they had sufficient information to determine whether or not there had been a breach of the local code of conduct. All parties withdrew from the room to enable the Sub-Committee to consider its decision.

On reconvening the hearing the Chair advised that having carefully considered all the information available, the Sub-Committee concluded that Councillor Dhillon:

- (a) Had breached Paragraph 3(1) of the Local Code of Conduct in that he had failed to show respect to Mr Wagner during a telephone conversation on 26 May 2010.
- (b) Had not breached Paragraph 3(1)(b) of the Local Code of Conduct, in that he had not bullied Mr Wagner during a telephone conversation on 26 May 2010.

The Sub-Committee determined that in respect of (a) above on the balance of probabilities Councillor Dhillon had failed to show respect to Mr Wagner during a telephone conversation on 26 May 2010.

The Sub-Committee gave little weight to the witness statements provided by Mr Grewal, given that the previous meeting had been adjourned in order to allow him to attend. The Sub-Committee understood that Mr Grewal would be in attendance at the hearing on 18 April but again failed to appear without adequate explanation.

Standards (Determination) Sub-Committee - 18.04.11

It was also noted that although a written apology had been given by Councillor Dhillon, following questioning at the hearing, Sub-Committee Members felt that it was not sincere.

Given the thorough investigation carried out by the Investigating Officer and subsequent questioning of all parties at the hearing, it was agreed that Councillor Dhillon had failed to show respect to Mr Wagner.

It was considered the comments made by Councillor Dhillon about Mr Wagner were disrespectful, for example in comparing him to his manager and other officers. Following questioning of both parties at the hearing, more weight was given to Mr Wagner's statement of events.

Having regard to the above the Sub Committee

Resolved – That Councillor Dhillon be censured.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 8.30 pm)

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5. Background Information

- 5.1 On 28th March 2011 the Standards (Assessment) Sub-Committee referred to the Council's Monitoring Officer for investigation a complaint that Councillors S Chaudhry, P Choudhry, S Dhaliwal, Rasib and Sohal had failed to comply with the Local Code of Conduct. In accordance with the arrangement agreed by the Standards Committee, the Monitoring Officer delegated the conduct of the investigation to Graham White, Interim Head of Legal Services i.e. the Investigating Officer.
- 5.2 The complaint has been made by former Councillor Maclsaac. The general summary of the complaint is that the Subject Members' were predetermined when they voted against officer advice; referring for consultation the proposed amendments to the Council's Policy on convictions and cautions used when determining the grant, renewal, suspension or revocation of Hackney Carriage and Private Hire Drivers or operator licences.
- 5.3 To assist the hearing process all Subject Members' were asked to complete and return the following pre-hearing forms and the completed forms are attached as **Appendix B**:
- Form D – Arrangements for the Standards (Determination) Sub-Committee Hearing
- 5.4 Enclosed for your attention and/or information are the following documents:

| <u>Appendix</u> | <u>Document</u> |
|------------------------|---|
| Appendix A | Investigating Officer's Report |
| Appendix B | Pre-hearing forms submitted by Subject Members |
| Appendix C | Procedure for the hearing |
| Appendix D | Standards Board advice on admission of press and public |
| Appendix E | Categories of "exempt information" |
| Appendix F | Sanctions available to the Sub-Committee |

- 5.5 The procedure for the hearing will be as set out in **Appendix C** and any guidance and/or advice the Sub-Committee may require will be provided by the Monitoring Officer.

6. Conclusion

The Sub-Committee is asked to consider the evidence presented and come to a decision as to what action, if any, should be taken in respect of this matter.

7. Background Papers

None.

SLOUGH BOROUGH COUNCIL

REPORT OF AN INVESTIGATION UNDER SECTION 66 OF THE LOCAL GOVERNMENT ACT 2000 AND REGULATION 5 OF THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) REGULATIONS 2003 (AS AMENDED) INTO A COMPLAINT FROM (FORMER) COUNCILLOR DAVID MACISAAC CONCERNING THE ALLEGED CONDUCT OF COUNCILLORS SHAFIQ CHAUDHRY, PERVEZ CHOUDHRY, SUKHJIT DHALIWAL, MOHAMMED RASIB AND PAUL SOHAL.

GRAHAM WHITE, INTERIM HEAD OF LEGAL AND DEPUTY MONITORING OFFICER APPOINTED AS INVESTIGATION OFFICER, BY KEVIN GORDON, MONITORING OFFICER

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1. Introduction

- 1.1 Former Councillor David Maclsaac (DM) of Slough Borough Council (SBC) made a written complaint, via email, to the Monitoring Officer of SBC. The complaint is dated 24 February 2011. (Document 1)
- 1.2 In summary, DM alleged that at the meeting of the Licensing Committee held on 23 February 2011, as a result of lobbying from the Slough Taxi Federation, the Subject Members were predetermined when they voted. They voted, it is alleged, against Officer advice, referring for consultation, the proposed amendments to the Council's Policy on convictions and cautions used when determining the grant renewal, suspension or revocation of Hackney Carriage and Private Hire drivers or operators licenses, for consultation. The amendments were proposed to more accurately reflect current practice and procedures which were in line with nationally accepted legislation and case law and were viewed by the Officers as administration changes only.
- 1.3 On 28 March 2011, the Standards (Assessment) Sub-Committee considered the complaint of DM and decided to refer the complaint to the Monitoring Officer for investigation. The Sub-Committee identified paragraph 5 of the Local Code of Conduct, 'Bringing an Office or Authority into Disrepute' as applying to the alleged conduct.
- 1.4 The decision notice in respect of DM's complaint can be found at Document 2.

2. The Process

- 2.1 As part of the investigation, interviews were carried out with the following persons present at the Committee meeting and a witness statement recorded for each:
 - a) Councillor David Maclsaac (DM) - Complainant
 - b) Councillor Roger Davis (RD) – Chair
 - c) Councillor Mohammed Rasib (MR) - Defendant
 - d) Councillor Shafiq Chaudhry (SC) - Defendant
 - e) Councillor Pervez Choudhry (PC) - Defendant
 - f) Councillor Sukhjit Dhaliwal (SD) - Defendant
 - g) Councillor Paul Sohal (PS) - Defendant
 - h) Michael Sims (MS) - Licensing Manager
 - i) Shabana Kauser (SK) - Senior Democratic Services Officer
 - j) Ann Osbourne (AO) - Lawyer
- 2.2 All witness statements are detailed at Documents 3 – 12 of the report.

- 2.3 All witness statements have been formally agreed by the witnesses via email notification.
- 2.4 Witness statements were not taken from Councillor Dodds, who left the meeting part way through the applicable agenda item due to sickness, or Councillor Long, who was unable to recall the meeting.
- 2.5 Former Councillor Shine was written to with regard to the investigation however failed to respond. This was not been followed up as sufficient information was presented by the above witnesses, to allow for conclusions to be drawn.

3. Statutory Framework and Common Law

- 3.1 The Council adopted its current Local Code of Conduct for Members (“the Code”) on 21st May 2007.
- 3.2 All Members who are elected to office must sign a “Declaration of Acceptance of Office” before they can officially act as a Councillor. In that declaration Members undertake to observe the Code as to the conduct which is expected of Members of the Council.
- 3.3 The Local Code of Conduct for Members is detailed at Part 5.1 of SBC’s Constitution. Section 5 of Part 5.1 states “[Members] must not conduct yourself in a manner which could reasonably be required as bringing your office or local authority into disrepute”. Predetermination with regard to any agenda item of a Committee Meeting would constitute a breach of this section.
- 3.4 Prior to the enactment of the Localism Bill, bias and predetermination continue to be governed by case law.
- 3.5 In the case of R [Lewis] v Redcar & Cleveland Borough Council and Permission Homes Teeside Ltd¹ the Court of Appeal gave details as to what constitutes an “apparent predetermination”. In the decision making process, unlawful predetermination occurs when a public authority decision maker closes their mind to any outcome but the one which they have predetermined. This is distinct from someone who is lawfully predisposed, which requires the individual to remain, at all times, open to other outcomes. Lord Justice Pill stated:

“62. ... When taking a decision Councillors must have regard to material considerations and only to material considerations, and to give fair consideration to points raised, whether in an Officer’s report to them or in representations made to them at a meeting of the Planning Committee. Sufficient attention to the contents of the proposal, which on occasions will involve consideration of detail, must be given. They

¹ 2008] EWCA Civ 746

are not, however, required to cast aside views on planning policy they will have formed when seeking election or when acting as Councillors.

63. ...It is common ground that in the case of some applications they are likely to have, and are entitled to have, a disposition in favour of granting permission. It is possible to infer a closed mind, or the real risk a mind was closed, from the circumstances and evidence. **Given the role of Councillors, clear pointers are, in my view, required if that state of mind is to be held to have become a closed, or apparently closed, mind at the time of decision.**"

He continues by quoting Woolf J in the case *R v Amber Valley District Council ex parte Jackson*² who stated that "...It is therefore likely that any Labour member of the planning committee will be more ready to grant planning permission than he would be if the Labour group had remained adverse to the development. But does this have the effect of disqualifying the Labour majority from considering the planning application? It would be a surprising result if it did since in the case of a development of this sort, I would have thought that it was almost inevitable, now that party politics play so large a part in local government that the majority group on a council would decide on the party line in respect of the proposal."

- 3.6 It should be noted that it is not possible to draw the conclusion that the decision maker has a closed mind simply because he or she had previously indicated the view which they may take, but rather there must be clear evidence that the decision makers mind was closed.

4. Information about the Licensing Committee meeting of 23 February 2011.

- 4.1 Item three of the meeting agenda presented to the Committee the revised Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing. The previous policy had been approved by the Licensing Committee on 24 January 2008. The Report was presented by MS. The purpose of the report was to note the minor amendments and reformatting of the revised policy ...following a draft document produced by the Office of Local Government Regulation, entitled 'Taxi and PHV Licensing Criminal Convictions Policy. The Committee was requested to approve the revised policy document in its new format, to be used when determining the grant, renewal, supervision or revocation of Hackney Carriage Drivers' license, a Private Hire Driver's license or Operations License.
- 4.2 Upon the completion of the presentation by the Licensing Manager, Mr. Badial who represented the Slough Taxi Federation and who, had given prior notice of his intent to speak, was invited to address the Committee. Mr Badial requested that consultation be carried out with members of the trade, to ascertain their views on the revision of the policy document.

² [1984] 3 All ER 501, [1985] 1 WLR 298, 50 P & CR 136

- 4.3 The minutes of the meeting detail the following:
- 4.4 “The Licensing Manager highlighted that the minor revisions and additions to the policy document related to legislation that had to be taken into account when determining applications and that in practice Members serving on a Licensing Sub-Committee already took these into account. It was reiterated that the policy and guidance booklet was being updated to reflect current working practices and that no substantial policy changes were being proposed within the policy and guidance booklet. The purpose of the consultation was queried, as it was highlighted that the amendments being proposed related to recent case law and legislation that had to be taken into account by Members of the Licensing Sub-Committee when determining an application.
- 4.5 In the ensuing discussion, several Members expressed concern regarding the proposal that a consultation should be implemented due to the fact that the revisions to the document were relating to legislation and the fact that the document had been tested out at the Magistrate’s Court and been viewed as a good and reliable document. Members were concerned that should a consultation be carried out and comments received, this could not change the inclusion of information within the document that related to national legislation and case law.
- 4.6 However, a number of Members stated that consultation with members of the private hire and hackney carriage trade would highlight those areas that were being proposed for inclusion within the document and alleviate any concerns that individuals who would be affected by the amendments may have.
- 4.7 Several members of the Committee highlighted that the purpose of the document was to serve to protect members of the public in Slough and reiterated that consultation on the document would not be in the best interests of the public.
- 4.8 **Resolved** - That a consultation be carried out with all private hire and hackney carriage licensed drivers with regard to the revised policy document.”

5 Report Follow Up – Licensing Committee meeting 2 June 2011

- 5.1 Having completed the consultation, the report returned to the Licensing Committee in June. Councillors RD, SC, PC JL and MR in addition to a number of newly elected Councillors, were requested to reconsider the amended Policy, which was presented by Rachel Rumney, Senior Licensing Manager. The minutes of the meeting state that the amended Policy was approved by all Members after having been presented the amended report again by Officers. No questions were raised with regard to the Policy. It was minuted that “A Member expressed disappointment with regard to the poor response that had been received during the consultation period, given that the matter had

been adjourned from the last meeting in order for the consultation to be carried out.”

6 Material Findings – Unlawful Predetermination

- 6.1 DM claims that the five Councillors who voted in favour of consultation had “got together to vote a consultation through to win support from [the] Taxi Federation” and did so despite having “no plausible reasons” for their decision. DM believes that the accused attended the meeting having predetermined their decision to vote for consultation as lobbied by the Taxi Federation. He states the Members “appear[ed] to be smiling and nodding at the Taxi Federation representative when they spoke”. MS noted that Mr Badial, representative of the Taxi Federation appeared to be “uncomfortable, as though he had been encouraged to attend and speak at the meeting by someone else”. RD also supports DM and has stated that “I was of the impression that those voting in favour of consultation had come to the meeting having already made up their minds that they would do so”.
- 6.2 SD, SC, MR and PS have all stated that they had not been lobbied prior to the meeting in question and were unaware of anything that would be raised as an issue. RD informed that “I was not conscious of anything on the agenda that may have provoked any form of lobbying for the federation”. SK also reported that she was not aware that this was to be a controversial issue and reiterated that all Members were informed by MS that consultation was unnecessary as additions reflected legislation and case law only”. She noted that MS was questioned as to whether the Policy was standard practice for Local Authorities (LAs). MS told all Committee Members that LAs were entitled to adopt their own version of the Policy; however this Policy had been upheld by the Magistrates Court and implemented since 2008. SK confirmed that the Committee was informed that consultation had previously been carried out with regard to the whole Policy and the additions to be approved were clarifications only. It was noted that the debate surrounding the issue of consultation became somewhat heated as a result of which, SK requested that all comments be made through the Chair.
- 6.3 There is no disputing that MS emphasised to the Committee that amendments made to the Policy reflected national requirements and were already utilised by Officers and Members.
- 6.4 All of the accused dispute attending the meeting having predetermined that they would, with absolute certainty, vote for consultation. Councillor Rasib (MR) specifically mentions that he “entered the meeting with the intention of being open minded”. SC notes that he has “been a Cabinet Member for three years” and does his “best to take the role seriously and act in a responsible manner at all times”. He also disputes that he was politically motivated to vote for consultation and states that “I was not fighting for votes in the election

and so had no intention of voting for consultation in order to encourage members of the electorate to vote for myself". Finally, PC was of the opinion that the Committee is not politically motivated as it performs a quasi-judicial function and there is no political whip.

- 6.5 It was stated by a number of the Members, including RD that, former Councillor Shine (PS), a BILLD Member, despite having voted in favour of agreeing the Policy, had initially voiced the opinion that consultation should be sought. RD stated that "I believe Councillor Shine initially requested consultation, although he changed his mind at the time the vote was carried out".
- 6.6 Despite having been happy with the Policy, MR stated that "I aimed to take into consideration the interests of both the Council and its constituents". He concluded to vote for consultation as he thought it appropriate that consultation take place with members of the trade prior to the amended policy being agreed. PC provided no detailed reason as to why consultation should be carried out other than that "[t]here is an established principle in the Committee that before any changes are made to licensing policy, relevant parties are consulted."
- 6.7 SD was of the opinion that some confusion had arisen with regard to the report due to the information provided by MS. She states "[i]nitially I felt that the Officer presenting the amended Policy did not do so as clearly as could have been done...I attempted to act as mediator between the Members and the Officer...However I did not receive the clear response I had expected and began to question my own understanding of the modified Policy". Consequently SD informed that she decided to vote for consultation as she believed that decision would minimise any risk that may have occurred had the Policy simply been agreed.
- 6.8 A number of Members have stated that they were informed by MS that nothing would be lost, other than a time period of four weeks, if consultation was to be carried out. PC comments that, the Committee was informed that no harm would occur as a result of consultation. PS noted that he questioned MS "with regard to whether there would be any financial implications as a result of pending the decision of the report for a month or so to enable consultation to be carried out" and was informed that "this was not to be the case and therefore could not see any disadvantage in going ahead with consultation".
- 6.9 MS informed that in response to the Committees decision "1000 consultation letters were sent out. Only one response was received..." Having completed the consultation the report returned to the Licensing Committee on 2nd June 2011. All members agreed to adopt the amended Policy with no questions being raised. PS stated that he was particularly disappointed with the poor response to consultation and "apologised to the Committee for having wasted Officer time".

7 Reasoning – Unlawful Predetermination

- 7.1 On the balance of the evidence, it can not be concluded that the accused Members attended the meeting having predetermined how they would vote.
- 7.1.1 No material evidence is available of conduct at the Committee Meeting which clearly demonstrates that any of the accused had closed their mind to any result other than the need for consultation.
- 7.1.2 Despite the suggestion that said Members were voting in order to win votes in the following local elections which took place on 5th May 2011, SC was not participating in the election and so was unlikely to have been voting with this intention. Little evidence had been produced that Members were any more politically motivated than would normally be expected from elected policy makers.
- 7.1.3 SD noted that had the amended report been better explained she may have voted differently.
- 7.1.4 PS' apology prompted by the extremely low response to consultation suggests sincere reasoning for having voted for consultation.
- 7.1.5 SC was not required to participate in any local election in 2011 and was therefore unlikely to have been politically motivated when voting with regard to this matter.

8. Conclusion

- 8.1 The investigation has given rise to no substantial or independent evidence which can demonstrate the Committee Members in question attended the Licensing Meeting of 23 February 2011 having unlawfully predetermined that they would be voting for public consultation to be carried out.

9. In summary I conclude that

- 9.1 No breach of Section 5 of Part 5.1, which states “[Members] must not conduct [themselves] in a manner which could reasonably be required as bringing your office or local authority into disrepute” has been found.

10. Recommendation

- 10.1 It is recommended that the complaint be dismissed and no further action be taken.

Date: 05 December 2011

Graham White

Interim Head of Legal

Standards Investigation Officer,

For and on behalf of the Monitoring Officer

11. List of Documents Annexed to the Report

- a. Complaint of Former Councillor MacIsaac dated 24 February 2011
- b. Decision Notice 2011/SBC27 dated 28 March 2011
- c. Witness statement of Former Councillor MacIsaac
- d. Witness statement of Councillor Davis
- e. Witness statement of Councillor Rasib
- f. Witness statement of Councillor S Chaudhry
- g. Witness statement of Councillor P Choudhry
- h. Witness statement of Councillor S Dhaliwal
- i. Witness statement of Councillor Sohal
- j. Witness statement of Michael Sims, Licensing Manager
- k. Witness statement of Shabana Kauser, Senior Democratic Services Officer
- l. Witness statement of Ann Osbourne, Lawyer

DOCUMENT ONE

From: David MacIsaac [david.macisaac@btinternet.com]

Sent: 24 February 2011 20:54

To: Memoli Maria

Cc: Cook June

Subject: Licene Committee Standards complaint

On committee on 23rd Feb, Officers presented a report on amending licence policy for convictions and cautions to meet National Guidelines. The officers pointed out that nothing in document was different from what we did already and no need to consult Trade as it was legal requirements. Despite 5 Councillors were ignoring all the arguments and insisting it went for consultation with the trade and appear to be smiling and nodding at the Taxi Federation representative when they spoke. In my view they were doing this because of some pre arranged agreement with the representative and I made that point at committee, particularly as it is election time coming up and seem to be lobbying for votes from his members.

They gave no plausible reasons for the consultation despite being challenged by officers and the other 4 councillors and instead just voted it through.

The Councillors voting it through were

Councillor Sohal

Councilor Suki Daliwal

Councillor Rasib

Councillor Shafiq Chaudry

Councillor Pervez Choudry

The other 4 Councillors on the Committee were

Myself

Councillor Julia Long

Councillor Pat Shine

Councillor Roger Davies who voted against.

We all thought the same thing as taxi officers presenting that these 5 Councillors had got together to vote a consultation through to win support from Taxi Federation

While the others have no faith in Standards investigating I have decided to put my complaint forward. If nothing else awareness that Councillors like myself are willing to complain about it they may feel uncomfortable doing it again. Certainly if it is investigated you will see there was no legitimate reason to vote for consultation with trade and that the 5 gave no plausible arguments why they were voting that way.

SLOUGH BOROUGH COUNCIL
STANDARDS (ASSESSMENT) SUB-COMMITTEE

DECISION NOTICE

Reference: 2011/SBC27

1. Complaint

On 28th March 2011 the Standards Assessment Sub-Committee of this Council considered a complaint from Councillor David Maclsaac concerning the alleged conduct of Cllrs Shafiq Chaudhry, Pervez Choudhry, Sukhjit Dhaliwal, Mohammed Rasib and Paul Sohal, Members of this Authority.

A general summary of the complaint is set out below:

That, at the meeting of the Licensing Committee meeting held on 23rd February 2011, as a result of lobbying from the Taxi Federation, the Subject Members were predetermined when they voted, against Officer advice, to refer for consultation proposed amendments to the Council's Policy on convictions and cautions used when determining the grant renewal, suspension or revocation of Hackney Carriage and Private Hire drivers or operators licences. The amendments were proposed to more accurately reflect current practice and procedures which were in line with nationally accepted legislation and case law and were viewed by the Officers as administrative changes.

2. Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Assessment Sub-Committee of the Standards Committee decided to refer the allegation to the Monitoring Officer for investigation.

I identify below the paragraph of the Local Code of Conduct which may apply to the alleged conduct:-

Paragraph 5 - bringing an office or authority into disrepute.

The investigator will determine which paragraph(s) of the Code are relevant during the course of the investigation.

3. What happens now?

Please see the attached guide on the investigations process.

4. 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 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 Committee) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

5. Additional Help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible by contacting Shabana Kauser, Senior Democratic Services Officer on (01753) 875013 or by e-mail at shabana.kauser@slough.gov.uk.

Signed:

Maria Memoli, Monitoring Officer for and on behalf of the Sub-Committee

Date: 28th March 2011

DOCUMENT THREE

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by (former) Councillor Maclsaac

I attended the Licensing Committee meeting on 24 February 2011 in my capacity as Councillor and Committee Member. I can confirm that I had not been lobbied prior to the meeting; Members were well aware that I did not agree with lobbying.

I had no concerns with agenda item three, 'Revision of Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing' and expected it to be agreed by the Committee fairly quickly. I could see no reason to suggest that consultation was necessary, particularly as amendments reflected National Guidance.

The report was presented by Michael Sims, Licensing Manager, who stated that the amendments were straightforward. I recall that Mr Badial of Slough Taxi Federation requested to speak with regard to the item, which surprised me as I could see no reason why this particular report required any discussion. Despite being informed by both the Chair and Michael Sims, that it was unnecessary, Mr Badial insisted that consultation should be carried out.

Councillor P Choudhry confirmed that he fully supported the request for consultation. In my opinion he gave no logical reason for this request. Councillor Sohal confirmed that he too was of the opinion that full consultation was necessary, which was followed by the expressed support of Councillors Dhaliwal, Rasib and S Chaudhry, all of whom looked towards Mr Badial and smiled on a number of occasions.

I informed the Committee, that in my opinion, public consultation was pointless and was only being requested to impress the Taxi Federation before the election. I commented that we may as well vote on the matter as it was apparent early on that these Members would be voting for consultation. The vote went ahead with five members voting in favour of consultation and four against. I made it clear that I was of the opinion that this was nothing but a waste of money which would have to be spent as a result of the completely unnecessary consultation. All Members had been informed by both the Chair and Officers that amendments to the Policy had been standard practice for some time and merely reflected national Guidelines. In my opinion the vote for Consultation had been predetermined, which is why I have raised this complaint.

At the end of the meeting I raised my concerns again with the Chair and Councillor Long, who agreed that it was a shame that Councillor Dodds had to leave during the meeting, as the outcome may well have been different.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Councillor Davis

I attended the meeting of the Licensing Committee on 23 February 2011, in my capacity as Committee Chair. I can confirm that no one had approached me prior to the meeting with any intention to lobby me.

Michael Sims, Licensing Officer, provided the Committee with an update regarding the revision of the Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing, item three of the agenda. Members were informed that all amendments to the Policy were for clarification purposes only and simply reflected practices as they had been for some time. I invited Mr Badial, of the Slough Taxi Federation, to speak. Mr Badial stated that he was not happy that amendments to the Policy had been made without prior public consultation and requested that consultation go ahead before the changes be agreed. I was surprised that Mr Badial had attended the meeting and raised this as a concern. I expected that the amendments, which clarified current practices, would sail through.

I believe Councillor Shrine initially requested consultation, although he changed his mind at the time the vote was carried out and voted in favour of the policy being approved by the Committee. Councillors Long, Dodds, Maclsaac and myself all spoke in favour of approving the amended Policy, whilst all other Committee Members spoke in favour of consultation. There was an obvious split of opinion from an early stage in the meeting. I was of the impression that those voting in favour of consultation had come to the meeting having already made up their minds that they would do so. Unfortunately, some time before the vote, Councillor Dodds was forced to leave the meeting due to sickness.

All Members were informed by Michael Sims that consultation was unnecessary as the amendments implemented no major change but rather confirmed practices that had been utilised for some time. Members were aware that consultation, which would require thousands of letters to be sent out, would be very costly to the Council and was unnecessary and disproportionate for the changes that had been made to the Policy.

The report returned to the Licensing Committee on 2 June 2011 and was approved by the Committee without any hesitation, as I had expected would be the case at the first meeting. No issues at all were raised and no one from the Taxi Federation attended the meeting.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Councillor Rasib

I confirm that I attended the Licensing Committee meeting of 23 February 2011 in my capacity as Committee Member. I had not met with anyone prior to the meeting to discuss any matters on the agenda and attended expecting it to be a short meeting.

Having been presented with item three on the agenda, 'Revision of Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing', I was of the opinion that the Policy was worthy of approval however, prior to this, consultation should be carried out. By suggesting this, I aimed to take into consideration the interests of both the Council and the constituents. I entered the meeting with the intention of being open minded.

I am unable to recall whether or not someone from the Taxi Federation spoke, however, I believe that two or three representatives did present their case for consultation, I am unable to recall who.

All Members were of the opinion that the amended Policy was a very well written document and it should be approved, however a number of Members, myself included, thought it appropriate that consultation take place with members of the trade prior to the amended Policy being agreed. I suggested that consultation should take place first and then approval be given. Councillor Shine also spoke in favour of this proposal, as did Councillor P Chaudhry.

After some period of debate, Members voted in favour of consultation. I was of the opinion that nothing, other than a period of four weeks, would be lost as a result of the consultation and it would ensure that members of the trade also agreed with the revised Policy.

The Policy was quickly approved by the Committee when it was presented again in June.

I would suggest that (former) Councillor Maclsaac had a tendency to react in a negative manner when a number of the Asian Members voted together. Although I have a great regard for (former) Councillor Maclsaac, it does seem that he is unable to accept that others may speak against his personal opinions.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Councillor Shafiq Chaudhry

I confirm I attended the Licensing Committee of 23 February 2011. I had not been lobbied with regard to this matter, or discussed it specifically with Michael Sims, Licensing Manager, prior to the meeting. The report was presented to the Committee by Michael Sims, after which the representative present from the Slough Taxi Federation had the opportunity to present his case.

I was of the opinion that if consultation had not taken place, the trade was likely to have been unhappy. I was in favour of the Policy, however wanted to ensure that the opinion of the trade was taken into consideration. I was also concerned that the amendments would affect drivers of private hire vehicles in addition to the Hackney Carriages and thought that it was important that all drivers were made aware of the amendments. That is why I came to the conclusion that I did and voted in favour of consultation.

I have been a Cabinet Commissioner for 3 years and I do my best to take the role seriously and act in a responsible manner at all times. Please also be aware that in 2011, I was not fighting for votes in the election and so had no intention of voting for consultation in order to encourage members of the electorate to vote for myself.

In addition, I had, on many occasions offered to give Councillor Maclsaac a lift home but not long before this particular meeting he declined my offer stating that his wife was coming to collect him. He went on to state that even if his wife had not been giving him a lift, he wouldn't have accepted a lift from me anyway. I was particularly offended by this and was well aware that he did not like me, although I am unsure why.

I am also upset by this complaint and that it has been alleged that I have partaken in some wrong doing. Given my position within the Council I would not wish to do anything which may undermine my credibility.

I do not recall being present at the time that the report returned to the Committee in June.

Standards Investigation into complaint by (former) Councillor MacIsaac

Statement by Councillor Pervez Choudhry

It is noted that the complaint is made against five members of the Committee who are all Asian. Although I am not suggesting that this complaint is inspired by racism, the complainant does have history in that regard.(i.e. complaints of racist attitude).

Members of the Licensing Committee are aware that the deliberations of the Committee are not politically motivated as the Committee performs quasi-judicial functions. There is no political whip and members go into the Committee with an open mind, independent of any body's advice including the Slough Borough Council Officers and determine the issues as they feel to be correct as per training received.

There is an established principle in the Committee that before any changes are made to licensing policy, relevant parties are consulted. On this occasion the trade associations were not consulted. There is no point in having a principle if it is not followed.

I do not recall whether it was the Taxi Federation or the Private Hire Association which sought consultation but it made no difference to me, the important element was that the principle should be followed.

Officer reported to the committee that he intentionally did not consult the trade as is his opinion Officers, there was no need for consultation as the changes were more about legality than discretion but I still concluded that it was necessary for us to go through the consultation process.

I was aware that the consultation may cause some delay to implementation of the revised policy and whilst that may cause some difficulties, but on my questioning I was informed that there was no history of any harm to public. As the legal principles were already being applied by courts and were applicable since some time, but Licensing Department did adopt those legal principles due to one reason or other but no real harm was done in mean time.

In view of above I made my decision at the meeting on the basis that regardless of what the policy amendments were, there was no historical evidence of danger to public and it was important to maintain the integrity of the process of consultation and I voted accordingly.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Councillor Dhaliwal

I attended the Licensing Committee meeting of 23rd February 2011 in my capacity as Committee Member. I had not been lobbied prior to the meeting and was unaware that anyone from the Slough Taxi Federation would be present at the meeting. I was not conscious of anything on the agenda that may have provoked any form of lobbying by the federation.

The report was presented by Michael Sims, Licensing Manager and the representative from the Slough Taxi Federation was given the opportunity to speak. Councillor Shine questioned whether or not consultation had been carried out and raised concern when informed that it had not. This prompted worry from Councillors P Choudhry, Rasib and Sohal, who also agreed that they would be unhappy to approve the amended Policy prior to consultation.

Initially, I felt that the Officer presenting the amended Policy did not do so as clearly as could have been done, hence the concerns which Members had shown. I attempted to act as a mediator between the Members and the Officer. I asked a number of questions to Michael Sims, the answers to which I hoped would mitigate concerns raised by Members. However, as I did so I did not receive the clear response I had expected and began to question my own understanding of the modified Policy. Consequently, I decided that I would vote for consultation as I believed this decision minimised any risk that may have resulted had the policy simply been agreed. I had thought that I was voting with Councillor Shine, as it was he who originally suggested that consultation should be carried out. I therefore feel that the complaint made by Councillor Maclsaac was particularly insulting and evidently not true.

Councillor Maclsaac had, throughout the meeting, stated that he knew how all Asians in the room would be voting. Once the vote had taken place he claimed that he had the names of all those who would vote for consultation on paper, prior to the vote taking place. It was at this point which I told him that I found his behaviour particularly insulting.

I was no longer a member of the Licensing Committee when the report returned in June 2011.

The issue with regard to simply voting in a manner to keep the Taxi Federation on side has been raised previously in a number of Licensing Meetings, however I do not believe that the Taxi Federation are influential enough for this to be a realistic aim of any Councillor. I am aware of and have supported a number of individuals, as members of the Community, who belong to the Federation, but that is all.

I would like to add that I had also submitted a complaint in response to the comments made by Councillor Maclsaac, who, I believe acted inappropriately

and with racist intent. The Comments he made challenged my integrity and intelligence, let alone my race and it was particularly insulting given that it had originally been Councillor Shrine who raised these concerns.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Councillor Sohal

I confirm that I attended the Licensing Committee meeting on 23rd February 2011, as a member of the Committee. The third item on the agenda was a report regarding the Revision of Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing. Prior to attending the meeting I had not been lobbied about this or any other agenda item and I was unaware as to whether or not consultation had taken place with regard to this particular item.

Two representatives of the Slough Taxi Federation were in attendance at the meeting, one of whom was Mr Badial. Once the report had been presented by Michael Sims, Licensing Officer, Mr Badial was invited to speak by the Chair. He raised concern with regard to the amendments that had been made to the policy and requested that full consultation be carried out.

Having heard from both Michael Sims and Mr Badial, I was of the opinion that it was only reasonable to request that the Taxi Federation be consulted. A number of comments were put to the Michael Sims with regard to the report, however it was my opinion, in addition to that of a number of other Councillors, that consultation was reasonable. After some heated discussions, Councillor P Choudhry proposed a motion for consultation. I note that Councillor Shine also spoke in favour of consulting with the Taxi Federation, however when it came to the vote he appeared to change his mind.

I questioned Michael Sims with regard to whether there would be any financial implications as a result of pending the decision of the report for a month or so, to enable time for consultation to be carried out. I was told that this would not be the case and therefore could not see any disadvantages in going ahead with the consultation. I seconded the motion.

This is not the first time that Councillor Maclsaac has complained about myself and my colleagues, I have been informed that this is consistent with his attitude and previous track record. I believe that he was in the habit of saying such things in order to acquire publicity.

The Policy came back to the Committee on 2nd June 2011, at which point I discovered that no response had been received from the federation nor did Mr Badial attend the Committee meeting, which I was particularly disappointed about. As a result of the poor consultation result, I apologised to the Committee for having wasted Officer time.

Standards Investigation into complaint by (former) Councillor Maclaac

Statement by Michael Sims, Licensing Manager

I confirm I am the author of the report entitled 'Revision of Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing', which was presented to the Licensing Committee on 23 February 2011. Attached to this report was the amended Policy and Guidance, all additions and amendments to which were highlighted. To confirm, all amendments and additions included were areas that Members were already guided on and used at Licensing Sub Committee meetings and which were not previously included in the original policy document. These were national published requirements, case stated, national standards, relevant legislation, all of which were currently used by officers and Members and had been for some years. In addition all these areas had been included in all Member Training and were and are contained in their Member Training Support Manual and Members would be fully aware of them.

I was of the opinion that the revised document would be approved swiftly. I had spoken with the Committee Chair who did not consider the report to be controversial or to have any adverse impact upon licence holders. It was expected that there may be some taxi drivers attend to speak on the following item on the agenda, the Equality Act 2010 taxi and Private Hire Wheelchair Accessible vehicles but I did not think any issue would be raised with this agenda item.

Mr Paramjit Badial, the Chair of Slough Taxi Federation attended the meeting and requested that he be able to speak with regard to this particular item. His request was approved by the Chair.

Mr Badial stated that he was unhappy that no consultation had been carried out and that full consultation should be required. It seemed to me that Mr Badial felt uncomfortable raising this, as though he had been encouraged to attend and speak at the meeting by someone else. Cllr P Choudhry immediately agreed that he too required public consultation prior to approving the amendments.

I stated to the whole Committee that consultation would be costly, unnecessary and irrelevant as it would not alter the amendments to the Policy, which mirrored Guidance. Despite this, Councillors Rasib, S Chaudhry, and Sohal began to voice their opinion that they too wanted full consultation to be implemented. All other Members (excluding Councillor Dodds, who left the meeting part way through due to illness) were happy to agree the amended Policy as it was.

Discussion continued for approximately an hour and a half. It was resolved that consultation would take place (five Members voted in favour and four against public consultation).

It is my opinion that Councillor P Choudhry was determined from the outset of the meeting to ensure that consultation would take place. I spoke with him after the meeting, highlighting again that there would be no benefit in consultation, to which he responded that I should just get it done and bring the Policy back to the Committee to be approved. It seemed that the additional Councillors also requesting consultation only did so once encouraged by Councillor P Choudhry.

As a consequence of the meeting, 1000 consultation letters were sent out. Only one response was received from a Mr Shakeel Ashraf who opposed the amendments.

The Policy was presented to the Committee in its complete original format for the second time on 2 June 2011, on my behalf by Rachel Rumney, Senior Licensing Officer. As you will note from the minutes of the meeting the amended Policy was swiftly approved. Councillors Sohal and Rasib publicly apologised for having forced through the requirement for consultation.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Shabana Kauser, Senior Democratic Services Officer

In my capacity as Senior Democratic Services Officer, I attended the Licensing Committee meeting of 24 February 2011. It was my understanding that agenda item three 'Revision of Policy of Convictions and Cautions was not a controversial issue but rather that the Policy had simply been 'tidied up' by Michael Sims, Licensing Manager.

Mr Badial, of the Slough Taxi Federation was present at the meeting. He requested that he be able to speak with regard to agenda item three, which the Chair agreed. Mr Badial addressed the Committee stating that the amendments to the Policy were too much to take in and that consultation with all members of the trade should be carried out.

Michael Sims replied stating that consultation was unnecessary as additions reflected legislation and case law only and that amendments clarified various points but did not add anything further to the document.

I recall that Councillor Dhaliwal asked a number of questions which were not wholly relevant to the policy document or the amendments which had been made to it. Councillor S Chaudhry questioned whether the Policy was standard practice for Local Authorities and was informed by Michael Sims that all Local Authorities have their own policies; however this particular Policy had been upheld by the Magistrates Court and had been implemented since 2008.

Councillor S Chaudhry raised concern with section 6.6 of the document. Michael Sims stated that this was not an addition to the document, but rather a national requirement which had been approved by the Licensing Committee previously. Councillor Maclsaac responded, stating that it was the role of the Councillors to protect the public. Councillor Rasib confirmed that he also agreed that consultation should go ahead.

Councillor Sohal questioned as to whether the Committee were able to go back to Mr Badial and ask him further for his opinion with regard to the Policy. I informed the Chair that it was not correct procedure to engage in a dialogue with Mr Badial as he had already had the opportunity to express his opinion.

Councillor P Choudhry formally proposed that a consultation take place. It was questioned as to what exactly was to be consulted on as nothing new was contained within the Policy. Councillor Shine questioned whether the areas highlighted within the document had been consulted on, to which Michael Sims reiterated that the consultation had previously been carried out with regard to the whole Policy and the additions to be approved at this meeting were simply clarifications reflecting case law and legislation.

Councillor Maclsaac again commented that the Councillors were there to protect the public and that in his opinion people were playing with votes. Councillor P Choudhry stated that he objected to the comment made by Cllr Maclsaac and that was not the case.

At this point Councillor Sohal seconded the proposal of Councillor P Choudhry. Five Members voted in favour of consultation with four voting against.

Michael Sims confirmed that consultation would take place with regard to additions to the Policy, as highlighted, only.

I noted that Councillor Long commented to Councillor P Choudhry that he was being obstructive and making points for the sake of making points. I interrupted at this stage and requested that all comments be made through the Chair.

Michael Sims concluded by stating that the Policy had been in place for three years, had been tried and tested at the Magistrates Court and that he was bewildered by the comments made by Members.

Having conducted the consultation, the revised Policy was brought to the Committee again on 2 June 2011. This Committee was comprised of a number of new Members, however Councillors Davis, Long, Rasib and Sohal also attended this second meeting.

Rachel Rumney, Senior Licensing Officer introduced the report, informing that the consultation had been carried out and that only one response had been received. Councillor Sohal stated that he was very disappointed with this result, especially as Mr Badial had not responded at all. He offered a formal apology for time wasted and recommended that the Policy be approved.

All Members agreed to the adoption of the amended Policy.

Standards Investigation into complaint by (former) Councillor Maclsaac

Statement by Ann Osbourne, Lawyer

I attended the Licensing Committee meeting on 23 February 2011 in my capacity as Council Solicitor. The Committee were presented with a report by the Licensing Manager, Michael Sims with regard to the revision of the Policy of Convictions and Cautions for Hackney Carriage and Private Hire Licensing.

I am unable to recall the meeting in detail as it was some time ago; however I can confirm that the Committee was presented with the report, after which a representative of the Slough Taxi Federation was given the opportunity to speak. He requested that consultation be carried out with regard to the amended Policy.

All Members were informed by Michael Sims that consultation was unnecessary given that no significant changes had been made to the Policy. I was not asked to provide any legal advice with regard to the matter at any point during the meeting, nor did I notice any suspicious behaviour by Members.

I was aware that Councillor Maclsaac specifically requested that it be noted in the minutes of the meeting that he disagreed with the decision to go ahead with consultation.

Slough Borough Council - Local Determination of Complaints

FORM B NAME: S CHAUDHRY

Please enter the number of any paragraph where you disagree with the findings of fact in the MO's report, and give your reasons and your suggested alternative

Member's response to the evidence set out in the Monitoring Officer's or his Nominee's (MO) report

| Paragraph number from the MO's report | Reasons for disagreeing with the findings of fact provided in that paragraph | Suggestion as to how the paragraph should read |
|---------------------------------------|---|--|
| 4.1 | <p>I believe that the way report was presented by MS, I misunderstood that it was a minor amendments and reformulating of revised policy other wise I would have supported this.</p> | |
| 4.2 | <p>DM claimed that member voted in favour of consultation to win support in coming election is wrong that Cllr P. Chaudhry also voted in favour and he was part of BILD Groupe same as Don.</p> | |
| 6.5 | <p>Cllr Pat Stone has also spoken in favour of consultation and then voted against prove that he also had different views.</p> | |

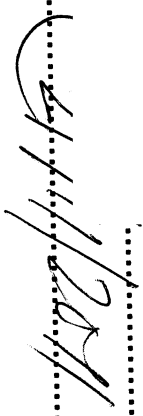
Continued overleaf

Slough Borough Council - Local Determination of Complaints

| Paragraph number from the MO's report | Reasons for disagreeing with the findings of fact provided in that paragraph | Suggestion as to how the paragraph should read |
|---------------------------------------|--|--|
| | | |
| | | |

Please attach additional sheets if necessary

Signed.....



Dated.....

Arrangements for the Standards Sub-Committee hearing


Please tick the relevant boxes

| | | | |
|----------|--|---|------------------------|
| <p>1</p> | <p>The proposed date for the Standards Sub-Committee hearing is given in the accompanying letter. Are you planning to go to the hearing?</p> <p>If "No", please explain why.</p> | <p>YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></p> | <p>Reason:</p> |
| <p>2</p> | <p>Are you going to present your own case?</p> | <p>YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></p> | |
| <p>3</p> | <p>If you are not presenting your own case, will a representative present it for you?</p> <p>If "Yes", please state the name of your representative.</p> | <p>YES <input type="checkbox"/> NO <input type="checkbox"/></p> | <p>Name:</p> |
| <p>4</p> | <p>Is your representative a practising solicitor or barrister?</p> <p>If "Yes", please give his or her legal qualifications. Then go to question 6.</p> <p>If "No", please go to question 5.</p> | <p>YES <input type="checkbox"/> NO <input type="checkbox"/></p> | <p>Qualifications:</p> |

Slough Borough Council - Local Determination of Complaints

| | | | |
|-----------------|--|------------------------------------|--|
| <p>5</p> | <p>Does your representative have any connection with the case?</p> <p>If "Yes", please give details.</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> <p align="center"><i>N/A</i></p> |
| <p>6</p> | <p>Are you going to call any witnesses?</p> <p>If "Yes", please fill in Form E.</p> | <p>YES ↑</p> <p>NO ↑ ✓</p> | |
| <p>7</p> | <p>Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed?)</p> <p>If "Yes", please give details</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> <p align="center"><i>N/A</i></p> |
| <p>8</p> | <p>Do you, your representative or your witnesses have any special needs (for example, is an interpreter needed?)</p> <p>If "Yes", please give details</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> <p align="center"><i>N/A</i></p> |
| <p>9</p> | <p>Do you want any part of the hearing to be held in private?</p> <p>If "Yes", please give reasons.</p> | <p>YES ↑</p> <p>NO ↑ ✓</p> | <p>Reasons:</p> |

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| | | | |
|------------------|---|----------------------------------|---|
| <p>10</p> | <p>Do you want any part of the documents to be withheld from public inspection?</p> <p>If "Yes", please give reasons.</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Reasons:</p>  |
|------------------|---|----------------------------------|---|

Please attach separate sheets if necessary.

Signed

Dated 21/11/2011

Kauser Shabana

From: Cllr Choudhry
Sent: 29 November 2011 16:27
To: Kauser Shabana
Subject: Re: Standards Report

Hi Shabana

Further to our telephonic conversation I confirm that I would not be able to attend the sub committee meeting and do not want to propose any amendment in the report

I hope above is to your requirement.
Many thanks

Sent from my iPhone

On 25 Nov 2011, at 09:53, Kauser Shabana <Shabana.Kauser@slough.gov.uk> wrote:

Dear Cllr Choudhry,

Following on from our telephone conversation this morning, please find attached the Investigating officer's report and a number of forms which you need to complete and return asap. As you will see, the Standards Determination Sub Committee has been arranged for Tuesday 13th December commencing at 6.30pm.

Should you require any further information please do not hesitate to contact me.

Shabana

Shabana Kauser,
Senior Democratic Services Officer,
Slough Borough Council,
Bath Road, Slough, SL1 3UQ

01753 875013
www.slough.gov.uk

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All messages sent by this organisation are checked for viruses using the latest antivirus products. This does not guarantee a virus has not been transmitted. Please therefore ensure that you take your own precautions for the detection and eradication of viruses.'

<Investigating Officer Report.doc>

<Notification Letter - P Choudhry.doc>

<FORMS A to C - Monitoring Officer Investigations.doc>

<FORMS D to E - Monitoring Officer Investigations.doc>

Slough Borough Council - Local Determination of Complaints
Form D Councillor **S ONALIWAL**

Arrangements for the Standards Sub-Committee hearing

Please tick the relevant boxes

| | | | |
|----------|--|--|-----------------|
| 1 | <p>The proposed date for the Standards Sub-Committee hearing is given in the accompanying letter. Are you planning to go to the hearing?</p> <p>If "No", please explain why.</p> | <input checked="" type="radio"/> YES <input type="radio"/> NO | Reason: |
| 2 | <p>Are you going to present your own case?</p> | <input checked="" type="radio"/> YES <input type="radio"/> NO | |
| 3 | <p>If you are not presenting your own case, will a representative present it for you?</p> <p>If "Yes", please state the name of your representative.</p> | <input type="radio"/> YES <input checked="" type="radio"/> NO | Name: |
| 4 | <p>Is your representative a practising solicitor or barrister?</p> <p>If "Yes", please give his or her legal qualifications. Then go to question 6.</p> <p>If "No", please go to question 5.</p> | <input type="radio"/> YES <input checked="" type="radio"/> NO | Qualifications: |

Slough Borough Council - Local Determination of Complaints

| | | | |
|-----------------|--|----------------------------------|--------------------------|
| <p>5</p> | <p>Does your representative have any connection with the case?</p> <p>If "Yes", please give details.</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> |
| <p>6</p> | <p>Are you going to call any witnesses?</p> <p>If "Yes", please fill in Form E.</p> | <p>YES ↑</p> <p>NO ↑</p> | <p><i>colleagues</i></p> |
| <p>7</p> | <p>Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed?)</p> <p>If "Yes", please give details</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> |
| <p>8</p> | <p>Do you, your representative or your witnesses have any special needs (for example, is an interpreter needed?)</p> <p>If "Yes", please give details</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> |
| <p>9</p> | <p>Do you want any part of the hearing to be held in private?</p> <p>If "Yes", please give reasons.</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Reasons:</p> |

Slough Borough Council - Local Determination of Complaints

| | | | |
|----|--|-------------------------|----------|
| 10 | Do you want any part of the documents to be withheld from public inspection? If "Yes", please give reasons. | YES ? NO ? | Reasons: |
|----|--|-------------------------|----------|

Please attach separate sheets if necessary.

Signed

Dated..... 18/11/11

**Slough Borough Council - Local Determination of Complaints
Form D
Councillor Rasib**

Arrangements for the Standards Sub-Committee hearing

Please tick the relevant boxes

| | | | |
|----------|--|--|---|
| 1 | <p>The proposed date for the Standards Sub-Committee hearing is given in the accompanying letter. Are you planning to go to the hearing?</p> <p>If "No", please explain why.</p> | <p>YES <input type="checkbox"/></p> <p>NO <input checked="" type="checkbox"/></p> | <p>Reason:</p> <p>I AGREE WITH THE INVESTIGATING OFFICER'S CONCLUSION IN HIS REPORT</p> |
| 2 | <p>Are you going to present your own case?</p> | <p>YES <input type="checkbox"/></p> <p>NO <input checked="" type="checkbox"/></p> | / |
| 3 | <p>If you are not presenting your own case, will a representative present it for you?</p> <p>If "Yes", please state the name of your representative.</p> | <p>YES <input type="checkbox"/></p> <p>NO <input checked="" type="checkbox"/></p> | <p>Name:</p> <p style="text-align: center;">/</p> |
| 4 | <p>Is your representative a practising solicitor or barrister?</p> <p>If "Yes", please give his or her legal qualifications. Then go to question 6.</p> <p>If "No", please go to question 5.</p> | <p>YES <input type="checkbox"/></p> <p>NO <input checked="" type="checkbox"/></p> | <p>Qualifications:</p> <p style="text-align: center;">/</p> |

Slough Borough Council - Local Determination of Complaints

| | | | |
|----------|--|----------------------------------|-------------------------|
| 5 | <p>Does your representative have any connection with the case?</p> <p>If "Yes", please give details.</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> |
| 6 | <p>Are you going to call any witnesses?</p> <p>If "Yes", please fill in Form E.</p> | <p>YES ↑</p> <p>NO ↑</p> | |
| 7 | <p>Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed?)</p> <p>If "Yes", please give details</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> |
| 8 | <p>Do you, your representative or your witnesses have any special needs (for example, is an interpreter needed?)</p> <p>If "Yes", please give details</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> |
| 9 | <p>Do you want any part of the hearing to be held in private?</p> <p>If "Yes", please give reasons.</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Reasons:</p> |

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| | | | |
|----|--|----------------------------|----------|
| 10 | Do you want any part of the documents to be withheld from public inspection? If "Yes", please give reasons. | YES ↓ NO ↓ | Reasons: |
|----|--|----------------------------|----------|

Please attach separate sheets if necessary.

Signed

Dated..... 28/11/11

Slough Borough Council - Local Determination of Complaints
Form D

Councillor PAUL SCHAZ

Arrangements for the Standards Sub-Committee hearing

Please tick the relevant boxes

| | | | |
|----------|--|--|---|
| <p>1</p> | <p>The proposed date for the Standards Sub-Committee hearing is given in the accompanying letter. Are you planning to go to the hearing? If "No", please explain why.</p> | <p><input checked="" type="radio"/> YES <input type="radio"/> NO</p> | <p>Reason: I am going abroad on 1st December and hopefully will be back on 12th but in any case if I am unable to return then I won't be attending the meeting on 13th Dec.</p> |
| <p>2</p> | <p>Are you going to present your own case?</p> | <p><input checked="" type="radio"/> YES <input type="radio"/> NO</p> | |
| <p>3</p> | <p>If you are not presenting your own case, will a representative present it for you? If "Yes", please state the name of your representative.</p> | <p><input type="radio"/> YES <input type="radio"/> NO</p> | <p>Name:</p> |
| <p>4</p> | <p>Is your representative a practising solicitor or barrister? If "Yes", please give his or her legal qualifications. Then go to question 6. If "No", please go to question 5.</p> | <p><input type="radio"/> YES <input type="radio"/> NO</p> | <p>Qualifications:</p> |

Slough Borough Council - Local Determination of Complaints

| | | | |
|-----------------|--|----------------------------------|-----------------|
| <p>5</p> | <p>Does your representative have any connection with the case?</p> <p>If "Yes", please give details.</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> |
| <p>6</p> | <p>Are you going to call any witnesses?</p> <p>If "Yes", please fill in Form E.</p> | <p>YES ↑</p> <p>NO ↑</p> | |
| <p>7</p> | <p>Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed?)</p> <p>If "Yes", please give details</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> |
| <p>8</p> | <p>Do you, your representative or your witnesses have any special needs (for example, is an interpreter needed?)</p> <p>If "Yes", please give details</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Details:</p> |
| <p>9</p> | <p>Do you want any part of the hearing to be held in private?</p> <p>If "Yes", please give reasons.</p> | <p>YES ↑</p> <p>NO ↑</p> | <p>Reasons:</p> |

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| | | | |
|-----------|--|----------------------------|----------|
| 10 | Do you want any part of the documents to be withheld from public inspection? If "Yes", please give reasons. | YES ↑ NO ↑ | Reasons: |
|-----------|--|----------------------------|----------|

Please attach separate sheets if necessary.

Signed

Dated..... 22. 11. 2011

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SLOUGH BOROUGH COUNCIL

Standards (Local Determination) Sub-Committee

Local Hearing Procedure

Interpretation:

“Member” means the Member of the Council who is the subject of the allegation(s) being considered by the Sub-Committee, unless stated otherwise. It also includes the Member’s nominated representative (if any).

“Investigator” means the Ethical Standards Officer (ESO) who referred the report to this Council or the Monitoring Officer and includes his or her nominated representative.

1. Preliminaries

1.1 The Chair will:-

- (a) ask the Members/Officers present to introduce themselves.
- (b) ask the Member Services Manager (or her representative) to confirm that the Sub-Committee is quorate.
- (c) ask the Investigator and the Member if they are to call any witnesses and if so who.
- (d) ask all present to confirm they know the procedure which the Sub-Committee will follow.
- (e) ask the Member, the Investigator and the Monitoring Officer (or his representative) whether there are any reasons to exclude the press and public from the meeting and if so on what grounds
- (f) advise the Sub-Committee that the determination process is in two stages:-
 - (i) whether or not the Member has failed to comply with the Local Code of Conduct as set out in the Investigator’s report and
 - (ii) if the Sub-Committee consider that a breach of the Local Code of Conduct has occurred what action (if any) the Sub-Committee should take.

- 1.2 The Chair will explain how the Sub-Committee is going to run the hearing and remind everyone that the Sub-Committee have received and read all of the witness statements and supporting documentation which form part of the agenda papers. Thus the Investigator and the Member should confine themselves to exploring any inconsistencies within the evidence and draw that to the attention of the Sub-Committee.
- 1.3 The Chair will emphasise that the proceedings are inquisitorial in nature not adversarial so cross-examination is not permitted.

2. Making Findings of Fact/Has there been a Breach? – Stage 1

- 2.1 The Monitoring Officer (or his representative) shall present the report submitted to the Sub-Committee together with the supporting documentation. Confirmation will then be sought from the Member as to whether there are any other additional points i.e. new ones which are not contained in the documentation.
- 2.2 The Investigator will present his case in the presence of the Member and may call witnesses to support the relevant findings of fact in the report.
- 2.3 The Member, will have the opportunity to ask questions of any witnesses the Investigator may call.
- 2.4 The Sub-Committee may ask questions of the Investigator and witnesses.
- 2.5 The Member will present his case in the presence of the Investigator and call such witnesses as he wishes to support his version of the facts.
- 2.6 The Investigator will have the opportunity to ask questions of the Member and his witnesses.
- 2.7 The Sub-Committee may ask questions of the Member and his witnesses.
- 2.8 The Chair shall then seek confirmation from the Members of the Sub-Committee that sufficient information is now available to determine whether there has been a breach of the Code.
- 2.9 At the discretion of the Chair the Investigator and the Member shall be given an opportunity to sum up their case (no more than five minutes each).

- 2.10 The Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.
- 2.11 The Sub-Committee shall then in private identify the material findings of fact and decide whether the Member did fail to comply with the Local Code of Conduct (All parties to leave room except Member Services Manager (or her representative) who will minute). The standard of proof is the balance of probabilities.
- 2.12 Once the Members of the Sub-Committee have come to a decision then all parties shall return to hear the material findings of fact, whether the allegation has been proven and what recommendations they have for the Council to promote high standards of conduct. Reasons will be given for the decision.
- 2.13 If the Sub-Committee find that the case is not proven the meeting must ask the Member whether he wishes the Council not to publish a statement of its findings in a local newspaper. Then the meeting is closed.
- 2.14 If the case has been proven then the Sub-Committee will proceed to Stage 2.

3. What Sanction should be Imposed? – Stage 2

- 3.1 If the Sub-Committee decide that the Member **has** failed to follow the Local Code of Conduct, then it will consider:-
 - (i) whether or not the Sub-Committee should set a penalty; and
 - (ii) what form any penalty should take (see attached)
- 3.2 The Sub-Committee may question the Investigator and Member and take legal advice if appropriate.
- 3.3 The Sub-Committee will then retire to consider whether or not to impose a penalty on the Member, and if so, what the penalty should be.
- 3.4 The Sub-Committee will return and the Chair will announce the Sub-Committee's decision and will provide a short written decision on the day.
- 3.5 The Chair will inform the Member of his right of appeal to the First-Tier Tribunal.

4. Post Hearing Procedure

- 4.1 A full written decision will be issued within 14 days of the end of the hearing which will include full reasons for its decision.

- 4.2 The Sub-Committee will arrange to publish a summary of its findings, the decision reached and where appropriate the penalty set in one or more newspapers (independent of the Council).

Notes

- A. All Members of the Sub-Committee have the right to ask questions/seek clarification once the Investigator and the Member have presented their respective cases.
- B. The Complainant has no right to speak.

APPENDIX D

Admission of Press and Public to Standards (Local Determination) Sub-Committee Hearings

The Standards Board for England recommends that hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

- 1 At the hearing, the Sub-Committee will consider whether or not the public should be excluded from any part of the hearing, in line with Part VA of the Local Government Act 1972 (as modified in relation to local determinations by Standards Committees). If the Sub-Committee considers that 'confidential information' is likely to be revealed during the hearing, the Sub-Committee must exclude the public by law. 'Confidential information' is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
- 2 The Sub-Committee also has the discretion to exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The categories of 'exempt information' are set out in Document 4. The Sub-Committee should act in line with Article 6 of the *European Convention on Human Rights*, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. The Sub-Committee also has a duty to act fairly and in line with the rules of natural justice.
- 3 Article 6 says that the public may be excluded from all or part of the hearing if it is in the interest of:
 - (a) Morals;
 - (b) public order;
 - (c) justice;
 - (d) natural security in a democratic society; or
 - (e) protecting young people under 18 and the private lives of anyone involved.
- 4 There should be a public hearing unless the Sub-Committee decides that there is a good reason, which falls within one of the five categories above (3a to e), for the public to be excluded.
- 5 The Sub-Committee must also act in line with Article 10 of the *European Convention on Human Rights*, which sets out the right for people to 'receive and impart information and ideas without interference by public authority'. Any restrictions on this right must be 'prescribed by law and.....necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the

reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary’.

- 6 Conflicting rights often have to be balanced against each other. The Sub-Committee must act in line with Article 8 of the *European Convention on Human Rights*. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the Sub-Committee) may interfere with this right unless it is:-
- (a) in line with the law; and
 - (b) necessary in a democratic society in the interests of:
 - (i) national security;
 - (ii) public safety;
 - (iii) the economic well-being of the country;
 - (iv) preventing crime or disorder;
 - (v) protecting people’s health and morals (which would include protecting standards of behaviour in public life); or
 - (vi) protecting people’s rights and freedoms.

There is a clear public interest in promoting the probity (integrity and honesty) of public authorities and public confidence in them. For these reasons the hearing should be held in public unless the Sub-Committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

- 7 In relation to people’s rights under both Articles 8 and 10 of the *European Convention on Human Rights*, it should be remembered that any interference with or restriction of those rights must be ‘necessary’ if it meets ‘a pressing social need’, and any restriction on people’s rights must be ‘proportionate’.
- 8 The Standards Board for England recommends that a Standards Committee/Sub-Committee should move to a private room when considering its decisions. It is not considered that this will conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.

APPENDIX E

Categories of “Exempt Information” under Schedule 12A of the Local Government Act 1972 (as modified in relation to local determinations by Standards Committees)

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes—
 - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - b. to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 7A Information which is subject to any obligation of confidentiality
- 7B Information which relates in any way to matters concerning national security
- 7C The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

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SLOUGH BOROUGH COUNCIL

Standards (Local Determination) Sub-Committee

The Local Authority (Code of Conduct) (Local Determination) (Amendment)

Penalties

Under these Regulations, Standards Committees/Sub-Committees can impose one, or any combination, of the following:-

- censure the Member;
- restrict the Member's access to the premises and resources of the relevant authority for up to three months, ensuring that any restrictions are proportionate to the nature of the breach and do not unduly restrict the Member's ability to perform his or her duties as a Member;
- order the Member to submit a written apology in a form satisfactory to the Sub-Committee;
- order the Member to participate in a conciliation process* specified by the Sub-Committee;
- suspend, or partially suspend, the Member for up to three months;
- suspend, or partially suspend the Member for up to three months, or until such time as the Member submits a written apology that is accepted by the Sub-Committee;
- suspend, or partially suspend, the Member for up to three months, or until such time as the Member undertakes any training or conciliation ordered by the Sub-Committee.

* **Any conciliation process should have an agreed time frame for resolution. The process may be of an informal or formal nature, involving elements of training and mediation that will lead to an effective and fair conclusion of the matter. Any decisions reached during the process regarding future behaviour of the Member concerned, and measures to prevent a repetition of the circumstances that gave rise to the initial allegation, should be agreed by all parties.**

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