

STANDARDS COMMITTEE

26TH AUGUST 2005

DIRECTORATE OF FINANCE AND CORPORATE SERVICES

**REPORT OF THE MONITORING OFFICER
- C.A.JOHN**

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SPECIAL STANDARDS COMMITTEE – 26TH AUGUST 2005

REPORT OF THE MONITORING OFFICER

SECTION A – MATTERS FOR DECISION

Report of the Monitoring Officer relating to a referred matter from the Ombudsman under Section 71(2) of The Local Government Act 2000 – Councillor R. Brooks Coedffranc Community Council

1. Introduction

- a) I enclose herewith a copy of a Report of The Local Government Ombudsman contained in a letter dated 18th February 2005 concerning his investigation into an allegation against Councillor R. Brooks of Coedffranc Community Council relative to a complaint made to The Ombudsman from a Mr. N. Collins that Councillor Brooks had breached the Community Council's Code of Member Conduct.
- b) The Report is in the form of a letter with appendices attached (see Appendix I hereto).

2. Background

- a) The Ombudsman's findings were reported to Standards Committee by me at its meeting of 22nd July last for consideration and decision in accordance with the Local Government Act 2000 and the regulations governing the operations of Monitoring Officers and Standards Committees in dealing with such reports i.e. The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 which have to be adhered to in dealing with such matter.

- b) Committee were told that the matter has been referred to me under Section 71(2) of the 2000 Act on a finding under Section 69(4) (c) by The Ombudsman. The Ombudsman has made a prima facie finding of breach/es of The Community Council's Code.
- c) The Regulations require of the Monitoring Officer that “(b) where a matter has been referred under section 71(2), he or she will consider the report of the Local Commissioner in Wales, before, if appropriate, making recommendations to the relevant authority's Standards Committee”.
(paragraph 7(b) of The Regulations refers).
- d) The Standards Committee made an initial consideration of this case at it's Meeting of 22nd July last. At that time The Standards Committee decided that they could not determine that:
 - (a) there is no evidence of a failure to comply with the code of conduct.
 - (b) In such circumstances they further determined that Councillor Brooks, as the subject of the investigation, be given an opportunity to respond, orally in respect of the findings in the Ombudsman's report that he had failed to comply with his Council's Code of Member Conduct, at a special meeting of The Neath Port Talbot County Borough Council's Standards Committee to be held on 26th August 2005.
- e) Standards Committee has determined not to adopt a set procedure. The Chairperson of Standards Committee has delegated power to deal with the same at the special committee.
- f) The Standards Committee have determined at this stage they do not require the attendance of the investigating officer to attend to present her report, the complainant nor any other persons other than Councillor Brooks.
- g) Hence upon hearing and considering Councillor Brooks' representations Standards Committee will determine the future conduct of this case.

3. **Issues for consideration**

A. The Ombudsman's report identifies what appears to be 2 allegations made against Councillor Brooks of breaches of The Code of Member Conduct.

1. That he used his position as a Councillor to influence the Youth Club to write off a debt owed to it

and

2. That he did not declare an interest under the code when a letter of complaint was considered by his Council.

B. The comments and findings of the Ombudsman in both respects are published on Page 2 of his report as follows:-

1. As regards allegation 1 above – The Ombudsman reports that given that this has been alleged and “in the absence of a rebuttal of this part of the allegation from Councillor Brooks, I am bound to find that on the balance of probabilities, he attempted to use his position to secure an advantage for the Football Club in breach of paragraph 7(a) of the Council's Code of conduct.

2. As regards allegation 2 above – The Ombudsman reports

“On 3 March 2004 the Community Council considered a letter of complaint dated 29 February 2004 from Mr. Collins regarding this matter. The minute of the meeting confirms that Councillor Brooks attended the meeting and did not declare an interest in this item. Whilst the substance of the complaint was not considered by the Council on this occasion given that Councillor Brooks' conduct was directly questioned in the letter of complaint being considered he should have declared an interest in the item and withdrawn from the meeting in accordance with paragraphs 11(a) and 16(3) of the Council's Code of Conduct. There is therefore further evidence of a breach of the Code”.

3. The Ombudsman has also commented in his report as follows:-

“Councillor Brooks has been reminded of the principles governing the Code of Conduct, in particular that members are accountable generally for their actions and for the way they carry

out their responsibilities as members and must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities. I find his failure to respond to the allegation disappointing particularly in view of his position as Chairman of the Council”.

4. At the time of drafting this report I record that no contact has been made by Councillor Brooks with me as Neath Port Talbot County Borough Council Monitoring Officer.

4. **Matters to note**

1. If any person who is the subject of an investigation fails to make representations in accordance with the Standards Committee’s request for same, Committee may:
 - (a) unless it is satisfied that there is sufficient reason for such failure, consider the monitoring officer’s report and make a determination in that person’s absence; or
 - (b) give that person a further opportunity to make representations.
2. After considering any representations, a Standards Committee must determine:
 - (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority and that therefore no action needs to be taken in respect of the matters which are the subject of the investigation;
 - (b) that a member or co-opted member (or former member or co-opted member) of a relevant authority has failed to comply with the relevant authority’s code of conduct but that no action needs to be taken in respect of that failure;
 - (c) that a member or co-opted member (or former member or co-opted member) of the relevant authority has failed to comply with the authority’s code of conduct and should be censured, or
 - (d) that a member or co-opted member of a relevant authority has failed to comply with the authority’s code of conduct and should be suspended or partially suspended from being a member or co-opted member of that authority for a period not exceeding six months.

3. Also

- (a) The decision of the Standards Committee is subject to a right of appeal to an appeals tribunal drawn from the Adjudication Panel for Wales.
- (b) An appeals tribunal may endorse the determination of the Standards Committee, refer a matter back to it recommending it impose a different penalty, or overturn the determination.
- (c) The Regulations also provide for a report upon the outcome of the investigation to be produced and published.

5. **Recommendations**

I do not propose to make any recommendations at this stage; I will give oral advices to the Standards Committee as appropriate at the special meeting.

6. **Decision requested**

Standards Committee members are to decide on the future determination of this case as relevant upon hearing and considering the oral representations made by Councillor R. Brooks in such manner as they feel appropriate. This may include proceeding in his absence and taking into account the Ombudsman's findings in his report, representations of Councillor Brooks or if none, otherwise proceeding to determining any sanctions to be applied with regard thereto.

Background Papers

Letter of the Ombudsman 18th February 2005 and papers attached
Local Government Act 2000 and Regulations made thereunder
Letter 11th March 2004 Monitoring Officer to Mr. N. Collins.
Letter 20th July 2005 Monitoring Officer to Cllr. Brooks
Letter 22nd July 2005 Monitoring Officer to Ombudsman
Letter 17th August 2005 Ombudsman to Monitoring Officer

Officer Contact

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