

Standards Assessment Sub-Committee Report



23 July 2020

Recommendation for Departure from Previous Resolution of Standards Assessment Sub-Committee of 7 July 2020 commencing at 18:00

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| Report sponsor | N/A |
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| Exempt / confidential / not for publication | No |
| Council Plan reference | N/A |
| Wards affected | N/A |

Background

The Monitoring Officer of Milton Keynes Council has received two complaints about an elected councillor of Milton Keynes Council regarding an alleged breach of the Code of Conduct.

On 7 July 2020, an Assessment Sub-Committee made a decision in relation to these two complaints. On 8 July 2020, information was sent by the complainant to the Monitoring Officer about an association between the Independent Person and the Subject Member of the complaint. The Monitoring Officer subsequently checked this with the Independent Person and has verified a prior association with the Subject Member.

Neither the Monitoring Officer nor members of the Assessment Sub-Committee were aware of this association before the Assessment Sub-Committee made its decision. The members of the Assessment Sub-Committee do not consider that their judgment was biased by this association and believe that their decision reflects an independent judgement of the complaint. As required by law, the Assessment Sub-Committee had

regard to the opinion of the Independent Person and it formed a consideration for their discussions, but they were not bound by any conclusions reached by the Independent Person and in fact, departed from certain aspects of that view.

Notwithstanding this position, the Sub-Committee Members who include the Chair and a Vice Chair of the Standards Committee, recognise that these facts can lead to a perception of bias, and consider that it is vital for public confidence that there is no question that the decisions made are fair and above challenge.

The Monitoring Officer has therefore reconvened an Assessment Sub-Committee to rescind the original decision on the grounds of perception of bias and to then reassess the matter with a new Independent Person's opinion. In order to remove any perception of bias caused by the association between the Independent Person and the Subject Member and with the agreement of the original Assessment Sub-Committee, a newly constituted Assessment Sub-Committee has been convened with different members.

Purpose of the newly constituted Assessment Sub-Committee

The first consideration of the Sub-Committee is to determine whether to rescind the original Assessment Sub-Committee's decision of 7 July, in line with the Monitoring Officer's recommendation on the grounds of perception of bias.

Then, if the decision is rescinded, the Assessment Sub-Committee will need to subsequently decide how to proceed in relation to both of the complaints. The Assessment Sub-Committee makes no finding of fact and this is not a hearing.

1. Recommendations and Decision/s to be made

- 1.1. That it is justified in all of the circumstances to rescind the Sub-Committee's decision of 7 July 2020 (18:00).
- 1.2. That, if the decision made is to rescind, the Sub-Committee conducts an assessment of the complaints afresh.
- 1.3. That the Sub-Committee in considering the complaints afresh, decides whether:
 - (a) to reject the complaints, with reasons;
 - (b) to refer the complaints to the Monitoring Officer for investigation; or
 - (c) to refer the complaints to the Monitoring Officer for resolution.

2. Issues and Procedure

- 2.1. Council Procedure Rule 15.3 (applies to a decision of a Sub-Committee of the Standards Committee) provides that a resolution of a Committee or Sub-Committee acting under delegated powers, may be rescinded where there is an officer's report recommending, with justification, such a departure from a previous decision.
- 2.2. In respect of a new decision, the process that is followed when making an initial assessment and the options that are open to the Sub-Committee, are outlined below:
- 2.3. As supporting materials, the Sub-Committee is required to consider:
 - Complaint 1 (**Annex A**)
 - Complaint 2 (**Annex B**)
 - The named councillor's response statement and evidence (**Annexes C and C(i)**)
 - Milton Keynes Council's Arrangements for dealing with Standards Allegations under the Localism Act 2011 (**Annex D**)
 - Milton Keynes Council's Code of Conduct for members (**Annex E**)
 - View of the second Independent Person on Complaint 1 (**Annex F**)
 - View of the second Independent Person on Complaint 2 (**Annex G**)
 - Named Councillor CMIS Profile (**Annex H**)
 - Register of Members Interests dated 15 June 2020 (**Annex I**)

- Register of Members Interests dated 11 May 2018 (**Annex J**)
- Email from Subject Member dated 23 June 2020 (**Annex K**)
- Decision Notice dated 7 July 2020 (**Annex L**)

2.4. Before assessment of a complaint begins, the Sub-Committee should be satisfied that a complaint meets the following tests:

- It is a complaint against a named councillor of the authority.
- The named councillor was in office at the time of the alleged councillor and the Code of Conduct was in force at the time.
- The named councillor was acting in their capacity as a councillor at the time of the alleged misconduct.
- The complaint, if proven, would be a breach of the Code under which the councillor was operating at the time of the alleged misconduct.

2.5. If these tests are satisfied, the Sub-Committee must then go on to consider:

- (a) Is the matter complained of very minor or trivial?
- (b) Is the complaint vexatious or malicious?
- (c) Is the complaint historical (i.e. more than 6 months old)?
- (d) Would the investigation of the complaint be in the public interest?
- (e) Is there any other substantial reason why further action is required?

3. Decision Making

3.1. Once the questions in paragraphs 2.4 and 2.5 have been considered, the Sub-Committee is required to reach one of the three following decisions:

- to reject the complaints, with reasons;
- to refer the complaints to the Monitoring Office for investigation; or
- to refer the complaints to the Monitoring Officer for resolution.

3.2. Within five working days of the Sub-Committee making its decision, it will notify the complainant and the named Councillor in writing, with reasons given for the decision.

4. Monitoring Officer

4.1. Having considered the facts, in respect of the decision of 7 July 2020 Assessment Sub-Committee, the Monitoring Officer is of the view that:

- the original Assessment Sub-Committee reached a decision based on a procedurally correct judgement of the available information;
- that as a result of the association between the Independent Person and the Subject Member, a reasonable person might perceive bias in the Independent Persons opinion which was taken into consideration in the Assessment Sub Committee of 7 July 2020;
- that a new Assessment Sub-Committee should therefore consider rescinding the decision of 7 July 2020; and
- the new Assessment Sub-Committee should conduct an Assessment of the complaints afresh.

4.2 Having considered the facts and consulted with the Independent Person, the Monitoring Officer decided to refer the complaints to a Sub-Committee because of the public interest in the case (**Annexes A, B and C**), the political sensitivities raised by the named councillor.

5. Additional Information

Timeline

- Complaint 1 officially received on 22 May 2020.
 - Complaint 2 officially received on 22 May 2020.
 - Named councillor provided a response on 6 June 2020.
 - Named councillor provided additional evidence on 6 June 2020.
 - First Independent Persons reports on Complaint 1 and 2 provided on 20 June 2020
 - Assessment Sub-Committee meeting and outline decision published 7 July 2020
 - Complaint received about Independent Person on 8 July 2020
 - Second Independent Person report provided (**to follow**)
 - Notice given of new Assessment Sub-Committee date on 15 July 2020
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List of Annexes

- Complaint 1 (**Annex A (circulated under separate cover)**)
- Complaint 2 (**Annex B (circulated under separate cover)**)
- The named councillor's response statement and evidence (**Annexes C and C(i) (circulated under separate cover)**)
- Milton Keynes Council's Arrangements for dealing with Standards Allegations under the Localism Act 2011 (**Annex D**)
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Exempt Papers:

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- Complaint 2 (**Annex B (circulated under separate cover)**)
- The named councillor's response statement and evidence (**Annexes C and C(i) (circulated under separate cover)**)
- View of the second Independent Person on Complaint 1 (**Annex F (to follow)**)
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