

Minutes of a meeting of the Hearing Sub-Committee held on 12 December 2011

Present:

Members of the Sub-Committee

Mr John Bridgeman – Independent member

Councillor Clare Hopkinson

Councillor Tim Naylor

Officers:

Jane Pollard – Corporate Legal Services Manager – Representing the Monitoring Officer

Janet Purcell – Democratic Services Manager – Clerk to meeting

Present during parts of the panel proceedings, as specified in minutes below:

Councillor Barry Lobbett – subject of complaint

Carol Evans – Corporate Legal Services, Investigating Officer

1. General

(1) Apologies for absence

None.

(2) Declarations of personal and prejudicial interests

None.

2. Exclusion of Public

Resolved

That members of the public be excluded from the meeting for the item 3 on the grounds their presence would involve the disclosure of exempt information as defined in paragraph 7C of Part 1 of Schedule 12A of the Local Government Act 1972.

3. Complaint under the Member Code of Conduct

- 3.1** The Sub-Committee considered an investigation report prepared under the instruction of the Monitoring Officer. The report concluded that there had been a failure to comply with the Member Code of Conduct.

Resolved

(1) That the matter is referred for local hearing

The Sub-committee then invited Councillor Barry Lobbett and Carol Evans into the Sub-Committee meeting to discuss certain pre-hearing matters and whether the matter could be heard today.

Resolved

(2) That the hearing take place today and the procedure be as set out in Appendix B

The Sub-committee then moved into public session to deal with the hearing

4. Complaint under the Member Code of Conduct – The Hearing

The Chair confirmed that the hearing would be conducted in accordance with Appendix B and would be in public except for those occasions when the Sub-committee needed to retire.

Resolved

That members of the public would be excluded from the meeting whenever the Sub-Committee needed to retire to discuss their findings on the grounds their presence would involve the disclosure of exempt information as defined in paragraph 7C of Part 1 of Schedule 12A of the Local Government Act 1972.

4.1 Matters of fact – representations from the Investigating officer and Councillor Lobbett

Carol Evans introduced her report and explained that she had identified in the expenses three categories of claims:

- Borough and party political matters
- Items not within the allowances scheme
- Other borough matters.

She advised that Councillor Lobbett had acknowledged from the start of the investigation that these were not appropriate and had been open and cooperative throughout. The Borough Council has a different system for approving claims.

4.2 Councillor Lobbett advised that he was aware of a previous member expenses matter that had come to hearing and that as a result of that matter, expenses

forms were now being looked at by someone authorised to say no (the Group Leader).

The Chair noted that all members had been given the Code of Conduct and guidelines.

Councillor Lobbett stated that he had assumed the scheme was the same as for the Borough Council and he had not read anything. He had since looked and stated that there was no mention that councillors can not claim for electioneering. He had noticed that councillors can claim for attending Parish Council meetings but not Borough meetings. Councillor Lobbett said that he had been told by an officer at the borough council that he could use the County Council form for both County and Borough claims and that the back office would cross charge the borough. He had only ever been sent one form from the Borough. He had claimed from both early on, before the advice to use one form.

Councillor Lobbett advised that he had only claimed once on items. It was noted that one submission had been made on 20 September 2006 when he had not been on the County Council. On being questioned by Councillor Naylor on his knowledge of the procedure, Councillor Lobbett said he had been told too late.

The Sub-committee questioned whether Councillor Lobbett had been aware that he should not claim for electioneering. Councillor Lobbett stated that he was not aware that he could not claim. The matter had not arisen. He had helped MPs for years but had not been a councillor then. He added that he had lost expenses as he had not claimed for the short journeys he had made whilst a borough councillor. Councillor Lobbett questioned why he had not been told that he could not claim.

4.3 Findings of fact and conclusion on whether a breach(es) of the Code had taken place.

The Sub-Committee moved into private session to consider their findings of fact and whether a breach had been established. (Councillor Lobbett and Carol Evans left the room).

The Sub-Committee then announced their findings in public session as follows

“The facts in the Investigator’s report were undisputed and the main facts are set out below:

Councillor Barry Lobbett was first elected to office as a councillor of Warwickshire County Council on 4th June 2009. He represents the Bedworth North electoral division. Until May 2010 Councillor Lobbett was also an elected member of Nuneaton and Bedworth Borough Council.

Councillor Lobbett currently serves on the following committees:

- Communities Overview and Scrutiny Committee
- County Council
- Nuneaton and Bedworth Area Committee

Since November 2009 Councillor Lobbett has also been the County Council's representative on the Doorway Charity.

On taking office as a county councillor in June 2009 Councillor Lobbett gave a written undertaking to observe the Member Code of Conduct. Councillor Lobbett has confirmed that he is aware of the Member Code of Conduct and has attended briefings.

The Complaint

Following a request for disclosure of information in relation to members travel expense claims under the Freedom of Information Act, an article appeared in the Coventry Telegraph on 17th June 2011 which alleged that Councillor Lobbett had inappropriately claimed sums for travel which he was not entitled to.

On being made aware of the allegation, the Leader of the Council referred the following matter under the Member Code of Conduct to the Assessment Sub-Committee

“Councillor Lobbett had claimed car mileage and other expenses which were not in accordance with the Member Allowances Scheme during the period 2 February 2010 to 28 February 2011”

The Assessment Sub-Committee met on 1 August 2011 and decided to refer the matter for investigation by the Monitoring Officer.

The rules governing which expenses members can claim are contained in the Members Allowances Scheme. In relation to **Mileage Claims** the 2009/2010 scheme states at paragraph 10 “ **Travelling Allowances** may be claimed by members for the duties listed in the Appendix.... . The scheme is periodically updated but there has been no change to the list of duties in the Appendix for the period concerned. Mileage throughout the period has been set at 40p per mile.

Councillor Lobbett made 4 expenses claims during the period investigated:

- 1) 2/2/2010 – 31/3/2010 – for £356 - paid in May 2010
- 2) 1/4/2010 - 30/06/2010 – for £492.40 - paid in August 2010
- 3) 1/07/2010 - 31/12/2010 – for £494.80 - paid January 2011

4) 01/01/2011 –28/02/2011- for £214.80 - paid in March 2011

Councillor Lobbett identified 35 journeys which related to his role with the Nuneaton and Bedworth Borough Council. These are set out in Table A of the Investigator's report. The journeys amounted to 316 miles with a claim of £126:40. The majority of these journeys could have been claimed from the Borough Council except for the following which fall outside of the Borough Council's scheme.

- one meeting related to the members Surgery,
- one in respect of an officer retirement
- six journeys related to group meetings.

Councillor Lobbett also identified 28 journeys which related to election duties, distributing leaflets and canvassing on behalf of the local MP. These are set out in Table B of the Investigator's report and amounted to 381 miles and a claim for £152.40.

A small number of journeys in respect of meetings which did not appear to be approved County Council duties were identified. These amounted to 9 journeys with a total mileage of 166 Miles and a claim of £66.40. These are set out in Table C of the investigator's report. All but one of these journeys were for meetings related to the County Council's functions but were not approved meetings for the purposes of claiming under the scheme.

In summary

The facts set out in the Investigator's report, which are not in dispute, show that Councillor Lobbett made claims for expenses which did not fall within the scope of the Warwickshire County Council Member Allowances Scheme i.e.

- Claimed expenses from the Warwickshire County Council for activities related to Nuneaton and Bedworth Borough Council,
- Claimed for expenses which related to election duties
- Claimed for expenses for meetings which were not approved county council meetings

In total the amount over claimed during the period of investigation amounts to 887 miles at £354.40. The Council has agreed with Councillor Lobbett that this would be repaid in October 2011 by being set off against the current expense claim. He has already made partial repayment and the balance is being made up through his November 2011 expenses claim.

We also find that

- Councillor Lobbett has been co-operative and open throughout the investigation process.

- Councillor Lobbett says that he was not advised of what he could claim for under the Scheme
- the Borough Council system for claiming expenses was different from the one operated by the County Council
- the County Council only carried out arithmetical checks during the period of time concerned
- Councillor Lobbett had been aware of a previous serious incident of inappropriate expenses claims
- it is the responsibility of members to inform themselves of the requirements for making expenses claims

Decision on whether the Code was breached.

Having made our findings of fact we then went on to consider whether or not there was a breach of the Code of Conduct. We have considered the guidance from Standards for England with regard to the alleged breaches of the Code and we have listened carefully to the submissions made by the Investigating Officer and Councillor Lobbett.

We find that Councillor Lobbett has breached paragraphs 6(a), 6(b) (ii) and 5 of the Member Code of Conduct as set out below

You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage (Paragraph 6 (a)).

A claim for journeys which the member is not entitled would provide the member with an advantage.

Except for the meetings identified, the majority of claims submitted relating to Nuneaton and Bedworth Borough Council activities would properly have been claimed from the Borough Council. The Borough Council has indicated that claim forms are vetted and incorrect claims rejected.

Claims in respect of County Council activities which were outside the list of approved duties indicate that there is some genuine confusion as to which activities are covered by the scheme.

You must, when using or authorising the use by others of the resources of your authority ensure that such resources are not used improperly for political purposes (including party political purposes) (Paragraph 6 (b) (ii)).

The claims for journeys made in respect of 'election duties' are for political and party political purposes.

The Member Allowances Scheme requires all elected Members to follow the Scheme requirements and to provide clear and detailed justification at all times

to support their claims, in order to avoid the potential for bringing the Authority into disrepute.

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute (Paragraph 5).

We consider that by making these inappropriate expense claims Councillor Lobbett has by his conduct adversely affected the reputation of councillors and in our view that conduct is of the type which would reduce public confidence in the office of councillor and damage the reputation of the Warwickshire County Council.”

The Chair advised that this would be public document.

4.4 Representations on question of sanctions

The Chair then invited the Investigating Officer and Councillor Lobbett to address the issue of sanctions.

Carol Evans made the following representations:

- Councillor Lobbett has cooperated completely with the investigation and claims are category errors not deliberate.
- Monies have been paid back by deducting monies from last claim and remainder will be taken from current claim.
- Claims are now monitored through the Leader of the group.
- There is a need to give guidance to members.

Councillor Lobbett made the following representations:

- If the County did what is done at the Borough Council (checks, guidance) then this would never have arisen.
- Councillor Farnell agrees that attendance at Children’s Safety function should be permissible for expenses.
- I hope something is done to ensure this does not happen again.
- Councillor Shaw claimed for broadband and was told he could not, so why wasn’t I advised of what I could not claim?

The Hearing Sub-Committee moved into private session to consider sanctions. Councillor Lobbett and Carol Evans left the meeting. The Sub-Committee then moved back into public session to announce its decision on sanctions as set out below. Councillor Lobbett and Carol Evans rejoined the meeting

4.5 Sanctions

“We have considered the representations made to us on the matter of sanctions and we have decided that Councillor Lobbett should be

- (a) censured -It is the personal responsibility of every member to inform themselves of what they are entitled to claim under the scheme. It is entirely unacceptable for Councillor Lobbett to blame others for his inappropriate claims. He needs to take his responsibility to keep himself properly informed much more seriously.

It is clear Councillor Lobbett did not read the scheme and did not seek advice on the scheme from appropriate officers of this Council -we find Councillor Lobbett’s behaviour in this regard careless, negligent, thoughtless and irresponsible - causing potentially serious damage to the reputation of councillors and this Council.

If councillors are unclear about their entitlements under the scheme they should seek advice from the Monitoring Officer of this Council and not rely on assumptions or the informal advice of others.

- (b) required to submit a written apology to the Council and all councillors. Councillor Lobbett should read his apology out at the next available Council meeting, expressing his sincere regrets for his conduct and the possible damage that his careless and irresponsible behaviour may have caused to public confidence in the office of councillor and the reputation of the authority.
- (c) required to attend the next available training on the Warwickshire County Council’s members allowances scheme

In addition we are recommending to the Monitoring Officer that he make available training on the Members Allowances Scheme at the earliest opportunity to all members.

In accordance with the statutory requirements a summary of this decision and the reasons for it will be published in one or more newspapers circulating in Warwickshire.”

The Chair concluded by advising Councillor Lobbett that he would receive a copy of a summary within 24 hours of the hearing and a full decision within 10 working days. The decision will be published in local newspapers.

The Sub-Committee meeting closed at 1.00 pm.