AGENDA ITEM NO 2

TITLE: COMPLAINT AGAINST COUNCILLOR OWEN WINTERS

Committee: Standards Hearings Sub-Committee

Date: 28 July 2010

Author: Deputy Monitoring Officer

1.0 ISSUE

1.1 To receive the report of the Monitoring Officer and the Investigating Officer’s (Mr Simon Lovell) report relating to the Standards complaint against Councillor Owen Winters. To consider this and any relevant representations by the parties at the Hearing, and deal with the matter in accordance with the outline recommendations detailed in paragraph 2 below.

2.0 RECOMMENDATION(S)

2.1 That the Standards Hearings Sub-Committee consider the reports in the light of the relevant legislation, Standards for England Guidance and relevant representations of the parties and decide whether:

2.1.1 to find that Councillor Winters failed to treat the Complainants with respect and by doing so failed to comply with paragraph 3(1) of the Members’ Code of Conduct, OR to dismiss this allegation; and/or

2.1.2 to find that Councillor Winters bullied the Complainants and by doing so failed to comply with paragraph 3 (2) (b) of the Members’ Code of Conduct, OR to dismiss this allegation.

2.1.3 To find that Councillor Winters conducted himself in such a manner which could reasonably be regarded as bringing your office or authority in disrepute and by doing so failed to comply with paragraph 5 of the Members’ Code of Conduct, OR to dismiss this allegation.

2.1.4 [in the event that the Sub-Committee find that there has been a breach of the Members’ Code of Conduct] to apply sanctions, and what sanctions should be applied.

2.1.5 [if considered appropriate or relevant], to give recommendations to the Council that would, in their view, promote high standards of conduct.

2.2 To give reasons for all decisions made.
3.0 BACKGROUND/OPTIONS

3.1 A formal Standards complaint form was received from Little Downham Parish Councillors Marilyn Oldfield (“Complaint A”) Deborah Adams-Payne (“Complaint B”), and Caroline Frankland (“Complaint C”) in November 2009. The complaints relates to conduct of Councillor Winters at the Little Downham Parish Council meeting on the 5 November 2009, when Councillor Winters tried to address the committee during the public forum item on the Agenda.

3.2 A formal Standards complaint from was also received from Little Downham Parish Councillor Owen Winters in November 2009. The complaint concerned the conduct of the Chairman Rik Stacey (“Complaint D”) and Deborah-Adams Payne (“Complaint E”) at the Parish Council meeting on 5 November 2009, when Councillor Winters tried to address the committee during the public forum item on the Agenda.

3.3 A formal Standards complaint from was also received from Jackie Wardle the Clerk to Little Downham Parish Council, (“Complaint F”) in November 2009. The complaint related to the alleged conduct of Councillor Owen Winters at the Planning Committee meeting on 4 November 2009.

Complaint A

3.4 Councillor Oldfield’s complaint relates to conduct at the Little Downham Parish Council meeting on the 5 November 2009 during Councillor Winters attempt to address the committee during the public forum item on the Agenda. It is alleged that he did not treat the chairman with respect and behaved in a manner that was unacceptable and brought the Parish Council into disrepute.

Complaint B

3.5 Councillor Adams-Payne’s complaint relates to conduct at the Little Downham Parish Council meeting on the 5 November 2009 during Councillor Winters attempt to address the committee during the public forum item on the Agenda. Councillor Adams-Payne alleges that when she confronted Councillor Winters about his conduct he threatened and intimidated her. Mrs Adams-Payne goes on to say that that Councillor Winters consistently refuses to behave appropriately, he is bullying and has brought the Parish Council into disrepute.

Complaint C

3.6 Councillor Frankland’s complaint relates to conduct at the Little Downham Parish Council meeting on the 5 November 2009 during Councillor Winters attempt to address the committee during the public forum item on the Agenda. Councillor Frankland alleges that Councillor Winters shouted in a rude and offensive manner towards the chairman and insulted another member of the Parish Council not treating them with respect. Councillor
Frankland goes on to say that at previous Parish Council meeting’s Councillor Winters has shown an aggressive and bullying attitude towards the Parish Clerk and his action are bringing the Parish Council into disrepute.

3.7 Councillor Oldfield, Adams-Payne and Frankland allege that:

3.7.1 Councillor Winters failed to treat the chairman and the members of the Parish Council with respect (in breach of paragraph 3 (1) of the Member Code of Conduct – “You must treat others with respect”);

3.7.2 Councillor Winters conduct amounted to bullying, (in breach of paragraph 3 (2) (b) of the Member Code of Conduct – “You must not bully any person”);

3.7.3 Councillor Winters intimidated or attempted to intimidate members of the Parish Council 3(2)(c) NB this complaint was investigated and the Investigator found no case to answer.

3.7.4 Councillor Winters conducted himself in such a manner which could reasonable be regarded as bringing your office or authority in disrepute (in breach of paragraph 5 of the Member Code of Conduct – “You must not conduct your yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”);

Complaint D

3.8 A formal standards complaint was received from Parish Councillor Owen Winters in November 2009. The complaint related to the conduct of the Chairman Rik Stacey at the Parish Council meeting on 5 November 2009. It is alleged that Councillor Rik Stacey bullied him and that the comments made by the other Parish Councillors were disrespectful when he tried to speak during the public forum item. NB this complaint was investigated and the Investigator found no case to answer.

Complaint E

3.9 Mr Winters also made a formal standards complaint relating to the conduct of Councillor Adams-Payne at the Parish Council meeting. Mr Winters said that Mrs Adams-Payne had bullied him. In accordance with Standards Committee procedure, this complaint was referred to the Standards Referrals Sub-Committee for consideration on 8 December 2009. The Referrals Sub-Committee reached the decision that no further action is taken in relation to this allegation.

Complaint F

3.10 Jackie Wardles complaint relates to Councillor Winters conduct at the District Councils Planning committee of ECDC, during which Mrs Adams-Payne was to speak as the representative of Little Downham Parish Council. It is alleged
that Councillor Winters spoke to her in a disrespectful manner in a public place. He also attempted to intimidate and belittle Councillor Adams-Payne in such an aggressive matter, she felt was verging on harassment and bullying. Mrs Wardle’s alleges that that:

3.10.1 Councillor Winters failed to treat her and Councillor Adams Payne with respect (in breach of paragraph 3 (1) of the Member Code of Conduct – “You must treat others with respect”);

3.10.2 Councillor Winters conduct amounted to bullying, (in breach of paragraph 3 (2) (b) of the Member Code of Conduct – “You must not bully any person”);

3.10.3 Councillor Winters conduct compromised or was likely to compromise the impartiality of those working for the authority (in breach of paragraph 3 (2) (d) - of the Member Code of Conduct – “compromising or likely to compromise the impartiality of those working for the authority”); and NB this complaint was investigated and the Investigator found no case to answer

3.10.4 Councillor Winters conducted himself in such a manner which could reasonable be regarded as bringing your office or authority in disrepute (in breach of paragraph 5 of the Member Code of Conduct – “You must not conduct your self in a manner which could reasonably be regarded as bringing your office or authority into disrepute”); NB this complaint was investigated and the Investigator found no case to answer

4.0 Complaint Handling

4.1 In accordance with Standards Committee procedure, all the complaints were referred to the Standards Referrals Sub-Committee for consideration on 8 December 2009, and the Sub-Committee referred the matter to the Monitoring Officer for investigation. The Decision Notice was served on 15 December 2009.

4.2 Mr Simon Lovell, an officer from Peterborough City Council was instructed to undertake the Standards investigations on behalf of the Monitoring Officer. A final copy of the Standards report, dated 19 April 2010, was received on 20 April.

4.3 In relation to the Standards Complaints A, B & C, Simon Lovell found that there was a case to answer by Councillor Winters in relation to paragraphs 3(1), and 5 of the Member Code of Conduct. He did not find a case to answer in respect of the remaining two allegations, namely paragraph 3(2)(b) and paragraph 3(2)(c).

4.4 In relation to the Standards Complaint F, Simon Lovell found that there was a case to answer by Councillor Winters in relation to paragraphs 3(1), 3(2)(b) of
the Member Code of Conduct. **He did not find a case to answer in respect of the remaining allegation, namely paragraph 3 (2)(c) and paragraph 5.**

4.5 In accordance with Standards Committee procedure, the Standards Investigation report relating to Councillor Winters was considered by the Standards Referrals Sub-Committee on 20 May 2010 and the allegations relating to paragraphs 3(1) and 3(2)(b), 3(2)(c) and 5 that had been upheld were referred to a Hearings Sub-Committee for final determination. **The Referrals Sub-Committee issued a Notice of Acceptance of no breach in relation to the other paragraphs of the Member Code of Conduct that had not been upheld.**

4.6 In accordance with Standards Board Guidance on pre-hearing procedure, a detailed letter was then sent to Councillor Winters on 28 May 2010, enclosing pre-hearing forms A-E. Forms A-B & E were returned on 12 July 2010. These, together with the letter from Sally Winters of, are listed on the agenda as appendices. Such responses would normally be forwarded to the Investigator for comment. Simon Lovell is currently on leave and these were due for consideration by Diane Baker, his line manager, who signed off the original report does not have any comments to add at this stage.

4.7 Form A asks the subject Member to identify those matters, which are agreed or not agreed in respect of any finding of fact in the investigation report. In relation to Councillor Winters’s comments:

4.7.1 At 2.2, Councillor Winters states that at no time prior to the Planning Committee Meeting did he ever say he should represent and speak for the Little Downham Parish Council.

4.7.2 At 2.3, Councillor Winters states that the Chairman did not ask if the Item was on the Agenda.

4.7.3 At 3.1, Councillor Winters states that the statement made by Councillor Frankland that “Councillor Winters wanted to address the meeting in respect of a planning meeting that had occurred the day before” is untrue. He also states that it is untrue that Councillor Stacey only raised his voice to him.

4.7.4 At 3.1, Councillor Winters states that he did not at anytime approach Jackie Wardle or Councillor Adams Payne.

4.7.5 At 3.1, Councillor Winters states “that the meeting being abandoned” is not correct. He states that he proposed the meeting continue and Councillor Taylor seconded this. The meeting continued. **The Parish Council Minutes of the meeting on the 5th November 2009 show that the meeting was abandoned after the planning items were dealt with and that Councillor Oldfield seconded this with no objections.**
4.7.6 At 3.2, Councillor Winters states that the statement made by Deborah Adams-Payne “that she stepped down as chairman in 2009” for the reasons given is not correct. The Chairman acts for one year and then is replaced and this was what happened.

4.7.7 At 3.2, Councillor Winters states that the situation on the 4 November 2009 did not happen.

4.7.8 At 3.3, Councillor Winters states that the statement of Jackie Wardle “is totally out of context and untrue”. He states that Councillor Adams-Payne resigned at the meeting on 5 November but this was not minuted.

4.8 In accordance with Standards for England Guidance, a pre-hearings process summary (Form F) was completed and forwarded to all parties involved with the complaint on 14 July 2010 and an amended version is appended to the agenda.

4.9 The Hearing Process: The Sub-Committee will be made up of 3 Members of the Standards Committee, the Chairman of which is an independent member of the public who sits on the Standards Committee (Mr Philip Taylor), one District Member (Councillor Derek Beckett) and one Parish Member (Parish Councillor Stuart Smith). Having considered the complaint and any representations of the parties involved, it has been decided that the hearing should not be in private session.

4.10 All Members of the Standards Committee have a file of relevant documents relating to Standards matters (Terms of reference for all Committees/ Code of Conducts for District and Parish/ Standards Committee Regulations/ relevant guidance from the Standards for England on the Code of Conduct, complaints handling, local assessment, investigations and Determination, together with the Monitoring Officer protocol) and all Members involved in the Standards Hearing Sub-Committee have been asked to bring this along to the Hearing. A copy of the Hearings Procedure (and appendices) was approved by the Standards Committee in November 2008 (as amended on 22 April 2009) and has been appended to the agenda. Members are expected to consider any relevant legislation and guidance detailed or as provided by the Legal Advisor to the Committee when coming to their decision.

5.0 FINANCIAL IMPLICATIONS

5.1 The costs of the investigation reports and costs for Ms Diane Baker to attend the hearing and Officer time.

6.0 APPENDICES

6.1 All relevant papers are appended to the Agenda, and paginated.
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<tr>
<th><strong>Background Documents</strong></th>
<th><strong>Location</strong></th>
<th><strong>Contact Officer</strong></th>
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<tbody>
<tr>
<td>Those listed in the Agenda, together with relevant guidance “Standards Committee determinations”</td>
<td>Room 112 The Grange Ely</td>
<td>Amanda Apcar Principal Solicitor/ Deputy Monitoring Officer (01353) 616372 E-mail: <a href="mailto:amanda.apcar@eastcambs.gov.uk">amanda.apcar@eastcambs.gov.uk</a></td>
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