

DRAFT

Appendix 1

Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-11-005

Meeting / Decision: Standards Committee

Date: 24th March 2011

Author: Vernon Hitchman

Report: Reference to Committee of Investigating Officer's Report concerning an allegation of a breach of the code of conduct by a Parish Councillor

Appendix: Monitoring Officer's Report into Complaint Concerning Councillor X – 19-10 B&NES

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

- 1. Information relating to any individual*
- 2. Information which is likely to reveal the identity of an individual*

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

Factors for withholding:

- The appendix takes the form of documents compiled on behalf of the Monitoring Officer in a form required by law. They contain confidential details of allegations made against the Councillor concerned, the evidence of those whom the Investigating Officer has spoken to and the conclusion of the Investigating Officer as to whether or not the Code of Conduct for Members has been breached. It is, however, no more than the opinion of the Investigating Officer. The only stage at which it will be known definitively whether or not the Code of Conduct has been breached is when a hearing takes place into the report. Such a hearing will not take place until after the meeting to which this report is presented - in other words, some weeks into the future. The role of the Committee at this stage is merely to consider whether or not the matter should be determined conclusively by another body, namely the Adjudication Panel for England. At this stage, there is no apparent public interest in disclosing details of the allegations and the conclusions about them, since there is no competent body at this stage to reach a definitive view of the facts as presented.
- If the Committee conclude that there was no breach of the Code there is an entitlement of the Member who has been exonerated by the investigation to prohibit any publication of information about the complaint if he or she so wishes. This right is contained in Regulation 17(4) of the Standards Committee (England) Regulations 2008, an absolute right for the Member where there has been a finding of no breach to prohibit publication either of the details of the allegations against him or her and the fact that it has not been proven. In such cases, public consideration of the report containing the allegations would render redundant the power of the Member concerned to prohibit publication of the unfounded allegation made against them.

Factors for disclosure:

- The Standards Board for England guidance states as follows:-

'Despite the ability of the subject Member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a meeting. It also does not always have to result in excluding details of the complaint for the report sent out in advance of the meeting. In most cases, the public interest and transparent decision making by the Standards Committee will outweigh the subject Members interest in limiting obligation or an unproven allegation that has not yet been determined'.

Reasons why the public interest favours withholding the information:

- It is considered that the prejudice to the interests of the complainant and the member the subject of the complaint were the report to be discharged outweigh any benefit by way of openness.
- It is considered that the public interest is not served by having possible unfounded allegations entered into the public domain until such time as there is a body that is competent to deal with and decide on the allegations made.