

Council 28 June 2017: Question and response submitted from Members of the Public

Question No.	Question from	Question:	Question to:	Responsible Officer:
1.	Mr John Greenhill	In order that the principles outlined in the case of Metropolitan Properties v Lannon (1969) as re-visited in Porter v Magill (2000) and the overall requirement to act fairly are seen to be recognised, fully supported and acted upon, will this Council now adjust its Constitution and role specification of the Monitoring Officer to show that in Standards Committee procedures and hearings against Borough Councillors and Parish Councillors for alleged breach(es) of their Codes of Conduct, any person appointed by the Monitoring Officer to be the Investigating Officer for the purposes of such procedures and hearings will not be an employee or former employee of the Swale Borough Council?	The Leader	Monitoring Officer
<p>Response:</p> <p>I thank Mr Greenhill for his detailed question. Given the technical nature of the question, I have asked officers to look at the cases referred to. I am advised that the cases relate to the independence of the decision makers which must be distinguished from the role of the non-decision making investigating officer.</p> <p>The duty under every standards regime to investigate alleged breaches of the Code of Conduct sits with the Monitoring Officer who can decide whether to carry out the investigation themselves or to appoint another individual to do so. It is therefore accepted that an employee of the authority could be appointed to carry out an investigation.</p> <p>The appointment of the Investigating Officer is looked at on a case by case basis looking at the overall capacity and priorities of the in-house legal team, the status of the member and whether any conflict of interest exists.</p> <p>In all cases the individual appointment of the Investigating Officer reflects the need or otherwise for ongoing working relationships and in the case of Borough Members it is more likely that the appointment would be an external one.</p> <p>It would not be appropriate to take on the suggestion made as it would not allow the Monitoring Officer the flexibility required for</p>				

investigating alleged breaches of the Code of Conduct. It is essential that the Monitoring Officer has absolute discretion on how investigations are carried out.