



**IN THE FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
(Local Government Standards in England)**

**CASE NO: LGS/2012/0591**

**ON APPEAL FROM:**

Standards Committee of: Melton Borough Council  
Decision Notice No: SB014  
Dated: 25 June 2012

**APPELLANT:** Councillor Elaine Holmes of Melton  
Borough Council

**RESPONDENT:** Melton Borough Council Standards  
Committee

**DATE OF HEARING:** 12 October 2012

**VENUE:** Leicester Magistrates Court

**DATE OF DECISION:** 16 October 2012

**BEFORE**

**Judge: Chris Hughes  
Member: Stan Szaroleta  
Member: Chris Perrett**

**Subject matter:**

Appeal by a member of a local authority against a Standards Committee decision

**Cases:**

Martin Dawkins v Bolsover District Council [2004] EWHC 2998 (Admin)

## **DECISION OF THE FIRST-TIER TRIBUNAL**

**The appeal is upheld for the reasons stated.**

### **REASONS FOR DECISION**

1. In municipal year 2009/10 the Appellant in this case was the Mayor of Melton. In October of that year an incident occurred which resulted in a relatively junior council officer complaining that the Appellant had behaved in an inappropriate way. An investigation was commissioned by the Council's Monitoring Officer which reported to the Council on 3 August 2010. It found that the Appellant had failed to treat others with respect, contrary to paragraph 3 (1) of the Code of Conduct for Melton Borough Council and that she had also conducted herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute contrary to paragraph 5 of the Code.
2. It is a requirement that such reports are considered by the Council's Standards Committee. The procedure is laid down by the Standards Committee (Regulations) 2008 which provide, at Regulation 18, insofar as they are relevant to the present case:  
  
'(1) Where a standards committee holds a hearing pursuant to a finding under regulation 17(1)(b), it shall ensure that—  
  
... (b) subject to sub-paragraph (c), the hearing is held within the period of 3 months beginning—  
  
(i) in the case of a report referred by an ethical standards officer, on the date on which the monitoring officer received the report; or  
  
(ii) in the case of a report prepared by the monitoring officer, on the date on which the report is completed;  
  
(c) the hearing is not held until at least fourteen days after the date on which the monitoring officer sent the report to the member who is the subject of the allegation, unless the member concerned agrees to the hearing being held earlier;  
  
(d) if the hearing is not held within the period specified in sub-paragraph (b), it is held as soon as reasonably practicable thereafter;...'
3. Since the report was received on 3 August 2010 there was a requirement for the case to be heard by the Standards Committee by early November or as soon as reasonably practicable thereafter. The case came to hearing and decision on 15 June 2012. It therefore fell to this appeal tribunal to determine whether or not the Standards Committee hearing of June 2012 was held in accordance with the rules or whether it was invalid.

4. The reason why the hearing was held more than 22 months after the report was received, 19 months later than it should have been, is a sorry tale which does not bring credit on either the Council or its former Mayor.
5. In setting about arranging the hearing the Council was dilatory, with even the most routine steps taking an inordinate amount of time. The first proposed date for the hearing was put to the Appellant on 19 November 2010 (3 1/2 months after the report was received and after the date upon which the case should have been held) and was for 20 December 2010 (4 1/2 months after the date the report was received and six weeks after the proper period for conducting the hearing had elapsed). The Melton Borough Council's Standards Committee resolved on 10 March 2011 to proceed with a hearing before the May 2011 elections, whereas the letter from the Monitoring Officer to Councillor Holmes dated 12 April said 'it is not practical within the timeframe to convene a hearing prior to the election on the 5th May 2011'. No satisfactory explanation of that delay, in practice of at least two months, was given to us in the preliminary hearing. Throughout the course of the 22 months there was no sense of urgency, no systematic and determined attempt to bring the matter to a hearing promptly and with a proper regard for the rules which explicitly required a hearing within three months, or as soon as reasonably practicable thereafter.
6. However while the council was torpid, the conduct of the appellant also contributed many months delay. When she was first invited to agree a date for the hearing she resisted and argued that the case should not be heard by Melton Standards Committee but by that of another Council. This issue took some months to resolve. As part of the procedure for ensuring that a hearing could be held swiftly and effectively, the rules of procedure for her Standards Committee required the Council to send her a number of simple forms asking her whether she accepted the allegations against her, whether she was being represented, if she was bringing witnesses etc. For many months she simply refused to respond to the Council. In her arguments before the tribunal she stated: "I didn't wish to. I haven't done anything wrong; I was the one that had been slighted." The Appellant is a senior member of the Council of many years standing. This event took place in the second year she had served as Mayor of the Borough. It seems strange that such a prominent and long serving councillor should have such little respect and regard for her own Council that she did not trust its Standards Committee and refused to cooperate as was her clear duty with making arrangements for the hearing by completing the forms. Her response to the Standards Committee showed scant understanding of the Nolan Principles of Public Life and in particular the obligation to show leadership and accountability; rather she demonstrated an alarming arrogance and lack of insight.
7. Despite the fact that much of the delay lies largely at the door of the Appellant in this matter, the Tribunal is satisfied that the Council could have and should have done far more to comply with the rules. In the case of *Martin Dawkins v Bolsover District Council [2004] EWHC 2998 (Admin)* Mr Justice Hughes provided a thorough review of the import of the statutory scheme for Standards Committee hearings and the significance of a delay. While the rules have been marginally amended since that time by qualifying the three months rule (by the addition of the provision that the hearing should be held as soon thereafter as reasonably practicable) the Tribunal was satisfied that the decision was applicable to the case before it and binding upon it. Where a case is not held within the three month period, the failure and reasons for the failure are factors which should be taken into account when deciding the reasonableness of the practicalities bearing upon the date when the hearing is finally held. Regard must be had to other material factors. In this case the Appellant was also at certain stages unfit to take part in the proceedings as well as substantially contributing to the delay. While it would clearly be in the public interest for this significant allegation against a leading councillor to be properly considered and resolved, the actions and inactions of the Council and the Appellant in

this case have rendered that impossible. They have also meant that the concerns raised by one of the Council's own employees as to how she has been treated by a leading councillor and that she had every right and expectation to believe would be properly addressed, have not been heard.

8. The substantial delays due to the Respondent's sloth mean that the Respondent failed to comply with the Standards Committee Regulations. The Tribunal must therefore allow the appeal, and the proceedings before the Standards Committee are struck down.

[Signed on the original]

**Chris Hughes OBE**  
Judge

16 October 2012