

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

5 August 2009

**Standards Bulletin**

**1.0 PURPOSE OF REPORT**

1.1 To present to the Committee, for consideration, a draft Standards Bulletin.

**2.0 BACKGROUND**

2.1 The Standards Bulletin is produced periodically and circulated to Members of the Authority to keep them informed of key developments and decided cases in the standards regime.

**3.0 THE STANDARDS BULLETIN**

3.1 At its meeting on 18 May 2009, subject to certain amendments, the Committee approved a draft of the summer Bulletin for circulation. Given the proximity of the local government elections on 4 June 2009, the Monitoring Officer thought it appropriate to delay circulation until after the elections.

3.2 There have recently been several developments in the ethical framework, which are the subject of a separate report to the Committee. The opportunity has therefore been taken to update the draft summer Bulletin and a revised version is attached at Appendix 1. Subject to any comments Members may have, Members are requested to approve the Bulletin for circulation.

**4.0 RECOMMENDATIONS**

4.1 That subject to any comments Members may have, the Bulletin be updated following the outcome of the Committee's meeting and then circulated to Members of the Authority.

CAROLE DUNN

Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

County Hall  
NORTHALLERTON

Background Documents:

None

24 July 2009



# STANDARDS BULLETIN

## INTRODUCTION

This edition of the Standards Bulletin reaches you at an important time in the further development of the ethical framework.

The national Code of Conduct for Members was first introduced in 2002 and amended in 2007. The Council has been proactive in implementing the prescribed ethical framework since that time, including the introduction of the local standards regime last year.

However, with the challenges of revised Codes of Conduct for Members and Officers on the horizon, and the last few remaining parts of the local regime to be put into place, there is still more important work to be done by the Standards Committee over the coming months.

Should you wish to discuss any standards matter, please do not hesitate to contact the Monitoring Officer or any of her Team.

## THE STANDARDS COMMITTEE

The Members of the Standards Committee:

- County Councillor Philip Barrett
- Mr Henry Cronin \*
- Mr James Darglish (Chairman) \*
- Miss Gillian Fleming \*
- Dr Janet Holt \*
- County Councillor David Jeffels
- County Councillor John Marshall
- County Councillor Peter Popple
- County Councillor Peter Sowray
- County Councillor Geoffrey Webber

\* Independent non-elected Member

If in doubt, please seek advice from the following:

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### **JAMES DAGLISH**

Chairman of the Standards Committee

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## **FOREWORD**

**by the Leader and Chief Executive Officer**

***Standards of behaviour within the Council are regulated by national Codes of Conduct and the ethical framework introduced in 2002. The Council is proactive in promoting and maintaining high standards of conduct through its Standards Committee, which has a wide remit and full work programme.***

***Whilst standards of behaviour within the Council are excellent, there is no room for complacency. We fully subscribe to the principles underpinning the ethical framework and expect all Members and Officers to do the same. We are both committed to working together to lead by example and upholding the ethical wellbeing and effective governance of the Council.***

**JOHN WEIGHELL**

*Leader of the Council*

**JOHN MARSDEN**

*Chief Executive Officer*

## ELECTIONS 2009

Local government elections were held on 4 June 2009.

Information about the elections and Members elected to the County Council are available on the Council's website:

[Homepage](#) / [Council and democracy](#) / Elections 2009

[Homepage](#) / [Council and democracy](#) / [Councillors](#) / Find my councillor

## REGISTER OF MEMBERS' INTERESTS

Following the elections, new and returning Members were required to register their interests in the Council's Register of Members' Interests.

Appointments of Members to **other bodies** such as the North Yorkshire Fire and Rescue Authority and the North York Moors National Park Authority have recently been made by the Council. If this applies to you:

- please ensure that you **update** your interests form as soon as possible (if you have not already done so);
- please consider whether you need to make the same or similar amendment(s) to your **interests form on any other relevant authority** on which you serve (eg the Fire Authority, or one of the National Park Authorities).

Don't forget to keep your interests form **under review** in the future and register any required amendments within 28 days by providing written notification to the Monitoring Officer. You must also register any **gifts and/or hospitality** worth £25 or more and received by you in your capacity as a Member of the Authority.

Should you wish to inspect the Council's Register of Members' Interests, or amend your registration entry, please contact Ann Rose (extension 2237) in Room 18, County Hall, Northallerton.

### Register of Members' Interests on Council website

Registration of interests forms are also usually available for inspection on the Council's website via the [Homepage/Council and democracy/Councillors](#) link or by following the following link:

<http://www.northyorks.gov.uk/index.aspx?articleid=8066>

The online Register has, however, currently been removed from the Council's website to be updated following the recent local government elections and the Authority's annual meeting. An updated version will be published online as soon as possible

For new Members, if there are any entries on your hard copy interests form which you would **rather omit** from the version on the website, then please let the Monitoring Officer know as soon as possible.

For returning Members, where you have previously indicated you would rather omit certain information from the online version of the Register, then that information will again be omitted.

Should you have any queries in relation to the registration of your interests or of any gifts or hospitality received/offered, then please feel free to contact the Monitoring Officer or any of her team.

## STANDARDS COMMITTEE ANNUAL REPORT

Each year, the Standards Committee presents an Annual Report about its work to full Council, to apprise the Council of the work of the Committee and help raise the profile and awareness of the Committee and ethical standards generally.

The Committee's Annual Report for the period June 2008 to May 2009 was presented to full Council at its meeting on 17 June 2009 for Members' information.

## **CODE COMPLAINT PROCEDURES**

The Standards Committee (England) Regulations 2008 provide for the local receipt, assessment, investigation and determination of complaints that Members may have breached the Code of Conduct, by local standards committees.

There is a statutory duty on the Authority to publish, in such manner as it considers appropriate, details of the procedures it will follow in relation to such complaints.

A procedure for the initial assessment of complaints and the review of any decision to take no action on a complaint has been agreed by the Standards Committee. The procedure incorporates the local Assessment Criteria previously agreed by the Committee.

The procedure has been published on the Authority's website and can be accessed under the 'Useful Downloads' section on the Councillor Conduct webpage ([Homepage/Council and democracy /Councillors](#) /Councillor conduct).

Procedures regarding the investigation and determination of complaints are dealt with in the Committee's Protocol for Local Determination of Complaints, which is currently being reviewed by the Monitoring Officer. Pending detailed revised procedures being produced, the Standards Committee has adopted interim Procedures adopting the framework set out in the legislation and Standards Board guidance documents. The interim Procedures can be accessed under the 'Useful Downloads' section on the Councillor Conduct webpage ([Homepage](#) / [Council and democracy](#) / [Councillors](#) / Councillor conduct).

## **STANDARDS BOARD – “A NEW LOOK”**

The Standards Board for England has announced that from July, there will be a new look and feel to its communications. The Board says that its communications “will do more to highlight the positive aspects of conduct; making the point that ethical behaviour is both a good thing in itself and good for local democracy.”

The Standards Board is also introducing an abbreviated version of its name: “**Standards for England**”.

The changes have been made to emphasise the change in the Board's role over the past 18 months, from a focus on complaint handling to being “the strategic regulator of standards among local politicians.”

More information about the Board's refreshed identity is available on its website ([www.standardsforengland.gov.uk](http://www.standardsforengland.gov.uk)).

## **LOCAL ETHICAL FRAMEWORK DEVELOPMENTS**

### **New Codes of Conduct for Members and Officers**

At its meeting on 1 December 2008 the Standards Committee considered a consultation paper in relation to further proposed amendments to the Members' Code of Conduct. The proposals relate primarily to the issue of the applicability of the Code to Member conduct whilst not acting in their official capacity.

The second part of the consultation paper dealt with a proposed new national Officers' Code of Conduct.

The proposals were considered by the Committee, which agreed that the Monitoring Officer should prepare a response, in consultation with the Chairman of the Committee, for approval for submission by the Executive Member for Corporate Affairs.

A response was submitted accordingly. Copies are available from the Monitoring Officer.

No further information has been received in relation to the proposals to date.

Members will be kept informed of developments.

### **The Standards Committee (Further Provisions) Regulations 2009**

The above Regulations came into force on 15 June 2009 and:

- allow Standards for England (“SFE”) to **suspend** a relevant authority’s local **assessment functions** (eg where an authority has failed to have regard to the SFE’s guidance/directions, or to carry out its standards functions properly, or where the standards committee requests the SFE’s intervention);
- enable authorities to establish **joint standards committees** to deal with all or any functions of a standards committee. The SFE has recently produced **guidance on joint standards committees** (available at [www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Standardscommittees/Joint%20Standards%20Committees%20updated%200107.pdf](http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Standardscommittees/Joint%20Standards%20Committees%20updated%200107.pdf)), including a draft constitution covering the information required by the Regulations;
- amend the powers of standards committees to grant **dispensations** to Members with a prejudicial interest.

The SFE has recently issued **Guidance on Dispensations** (available at [www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Standardscommittees/Dispensations%20FINAL.pdf](http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Standardscommittees/Dispensations%20FINAL.pdf)), in support of the revised dispensation provisions in the 2009 Regulations.

Under the previous dispensations regulations, a standards committee could only grant a dispensation where the transaction of business would otherwise be impeded because:

- a) more than 50% of the Members entitled or required to participate would not be able to; or
- b) the County Council would not be able to comply with "any duty which applies to it under section 15(4) of the Local Government and Housing Act 1989"

It was long acknowledged that there was a problem with the drafting of paragraph (b), the political balance criterion, as the s15(4) duty requires the allocation of seats and the appointment of committees that reflect the overall political balance of an authority. However, the duty does not arise in relation to individual meetings, either of the authority or its committees.

The practical effect of paragraph (b) was, therefore, that a dispensation could be sought if the Authority would be unable to allocate seats in accordance with the rules relating to political balance however this would only occur at the time that allocations were made to political groups and, thereafter, committees and not simply that political balance would not be maintained thereafter.

For this reason, it was difficult to envisage circumstances in which the paragraph (b) criterion would be met.

The new Regulations therefore clarify that **Members can seek a**

**dispensation where the political balance of the meeting would be upset sufficiently to prejudice the outcome of voting** on the issue.

The paragraph (a) ground for granting a dispensation where more than 50% of the Members are affected remains, but the wording clarifies that it is Members prohibited from voting on the business (rather than 'participating' in it).

Dispensations may also be granted for **speaking only**, as well as for speaking and voting. However, the Authority's current Code of Conduct relaxed the provisions for restricting Members with a prejudicial interest from speaking, provided the public were also able to speak at that meeting. Therefore, the need to request a dispensation in this respect is likely now to be limited to circumstances where the public do not have the right to speak.

These changes to the dispensation regime mean that the Committee's **Dispensation Request Procedure** now requires amendment. Suggested amendments will be considered by the Committee.

Please contact the Monitoring Officer or any of her Team should you require a copy of the Dispensation Request Procedure or wish to discuss a potential dispensation issue.

### **SBE Guidance on 'Other Action' by Monitoring Officers**

One of the options open to a Standards Committee in assessing a complaint that a Member may have breached the Code of Conduct, is to refer the complaint to the Monitoring Officer for 'other action'.

This means action other than investigation, eg training, conciliation or anything else that appears appropriate (eg instituting changes to Authority procedures if they have given rise to the complaint).

The purpose of 'other action' is not to find out whether the Member breached the Code; the decision is made as an alternative to investigation.

In response to a number of queries, the Standards Board has produced further guidance on 'other action' in order to clarify what it is, what it can involve, when it is appropriate, and what to do if it isn't successful.

The guidance also addresses the role of the monitoring officer, adjournment of assessment sub-committee meetings, and explains why 'other action' closes the opportunity to investigate.

The Board has published this Guidance on its website ([www.standardsboard.gov.uk/TheCodeofConduct/Guidance/Investigations/Other%20action%20guidance%20FINAL%20for%20web%20small3.pdf](http://www.standardsboard.gov.uk/TheCodeofConduct/Guidance/Investigations/Other%20action%20guidance%20FINAL%20for%20web%20small3.pdf))

Copies are also available from the Monitoring Officer.

### **Application of Code to private conduct**

The effect of the decision of Collins J. in the case of Ken Livingstone v Adjudication Panel for England [2006] was that Section 52 of the Local Government Act 2000 required Members to comply with the Members' Code of Conduct in their **official capacity** only, and that it did not extend to their private conduct.

Section 183(4) of the Local Government and Public Involvement in Health Act 2007 removes the words "in performing his functions" from Section 52(1)(a) of the 2000 Act, to enable the Code to cover some conduct in a **private** capacity.

Section 183(4) is only in force in Wales, not yet in England; so in England, the Code still does not yet cover Members at any time in their private capacity.



It is the Government's intention that these amendments will become effective at the same time as the new Code becomes operative.

Members will be kept informed of developments.

## **STANDARDS BOARD** **MONITORING**

### **Nationally**

As the national regulator responsible for monitoring and promoting ethical standards, the Standards Board monitors local standards regime arrangements via an online information return system.

#### **Quarterly Returns**

The Standards Board collects information on case activity and the profile of standards committees via online returns made by authorities on a quarterly basis.

The Board has recently published certain information from returns made to date nationally:

- a typical standards committee in an authority without parishes has **nine** Members, including **four** independent Members;
- a typical standards committee in an authority with parishes has 11 Members, including four independent Members and three parish representatives;
- on average, district and metropolitan councils have the largest standards committees and police authorities have the smallest;
- **2,030** cases have been recorded for the period 8 May to 31 December 2008;

- **69%** of authorities have dealt with at least one case during the first three quarters. Of all the authorities with cases, the average recorded is **two** per quarter, a total of **six**;
- Of the complaints recorded, **56%** are from members of the public and **34%** are from council Members. The remaining **10%** are from a combination of officers, parish or town clerks, MPs, monitoring officers, and those completing the form as 'other';
- No further action is taken in **52%** of the cases recorded; of the rest:
  - 14% are referred to another authority;
  - 28% are referred to the Monitoring Officer for investigation;
  - 6% are referred to the Standards Board for investigation;
  - <1% are referred to the Monitoring Officer for other action.
- A total of **344** requests for a review of 'no further action' decisions were made. Of the **264** of these that are completed, **95%** of decisions remain at 'no further action'. The other **6%** are either referred to the Monitoring Officer for investigation or referred to the Standards Board.

#### **Annual Returns**

Members may recall that the Standards Board intended to collect wider information (going beyond case handling details) from local standards committees on their activities and on their arrangements for supporting ethical conduct.

Those arrangements are now in place (from April 2009): this wider information is submitted in an annual return to the Board,



and the County Council took part in the Board's pilot exercise.

The Board has refined the Annual Return questions following the feedback from the pilot exercise. Topics for the Return are:

- activities of standards committees
- the role of leaders in promoting high standards
- training
- communicating the complaints process and outcomes
- Member-officer relations
- communicating the Register of Members' Interests
- officer conduct

The annual return takes the form of an online questionnaire, similar to the quarterly return.

The information the Board collects from annual returns will be used to "improve performance, champion the work of standards committees, and to ensure that [the Board has] an effective overview of local standards frameworks."

### **Local standards complaints**

There have been four complaints (three being the same complaint in respect of three Members by the same complainant) against North Yorkshire County Councillors during the reporting quarters January to March 2009 and April to June 2009.

The complaints have been considered at meetings of the Complaint Assessment Sub-Committee, which decided that no action should be taken in respect of any of the complaints.

Three of the complaints were considered by the Complaint Review Sub-Committee, at

the request of the complainant. The Review Sub-Committee upheld the decisions of the Assessment Sub-Committee.

The remaining complaint is due to be reviewed by the Review Sub-Committee shortly.

## **CONTRIBUTION OF STANDARDS COMMITTEES**

Previous Standards for England ("SFE") research has shown that there is a demand from standards committees for additional guidance on how to undertake some of their responsibilities.

The SFE has commissioned new research by the Universities of Hull and Teesside into the responsibilities and contributions of standards committees. They will collect effective practice examples from standards committees in nine local authorities on activities they undertake to ensure high ethical standards.

Members will be kept informed of developments.

## **APE CHANGES**

On 1 April 2009, the responsibility for the administration of the Adjudication Panel for England transferred to the Tribunal Service, an executive agency of the Ministry of Justice.

The transfer is part of the Government's ongoing programme of tribunal reform which began in April 2006.

Adjudication Panel staff have transferred from being Standards for England employees to becoming part of the Civil Service.

The Adjudication Panel office relocated to the Tribunals Service office in Leeds on 18 May 2009. The new address is:

Adjudication Panel for England  
York House  
York Place  
Leeds  
West Yorkshire  
LS12ED

## **SBE SURVEY**

The SFE Press Office recently issued a press release regarding the level of support among Members for the national Code of Conduct.

Every two years the SFE surveys the levels of satisfaction of local government with the performance of the SFE and their attitudes to the ethical environment.

The survey was first undertaken in 2004 and was repeated in 2007. The latest survey was conducted between 15 January and 9 March 2009.

A self-completion postal questionnaire was used to collect the views of stakeholders from all types of local government authority in England, including principal authorities, town and parish councils, and police, park and fire authorities. The survey included elected and non-elected members, monitoring officers and parish clerks.

In total, 3,784 questionnaires were distributed across 473 principal councils and police, park and fire authorities, and 1,758 questionnaires were distributed across 879 town and parish councils.

This year's survey shows support for the Code of Conduct and the local standards framework is at an all time high:

- 94% support the need for members to sign up to the Code, an increase of 10% since 2004;
- 83% consider maintaining high standards of behaviour to be one of the most important issues facing local government;

- More than 70% feel that it is right for complaints to be handled locally;
- 89% are confident that their authority is doing a good job of upholding standards;
- Four times as many agree as disagree that members' standards of behaviour have improved over recent times.

Results also show that 77% think the SFE has been successful in defining standards of behaviour for councillors, an increase of 12% since 2004.

Dr Robert Chilton, the Chair of the SFE said: "This is a very encouraging set of results. At a time when public trust in politicians is under serious challenge, and standards matter more than ever, they show that local government is leading the way, embracing the high standards of conduct, transparency and accountability that the public has every right to expect.

"The Standards Board will continue to support authorities in this essential work, providing the expert, independent national scrutiny needed to protect standards and boost public confidence in local democracy."

## **TRAINING**

In accordance with the Standards Committee's Standards Training Plan, refresher standards training for Members and Officers of the Authority will be planned for later in the year, once the outcome of the consultation paper on new Codes of Conduct for both Members and Officers is known. Refresher training will be organised around any new Codes of Conduct published.

## **ADJUDICATION PANEL CASES**

### **North Wiltshire District Council**

The complainant, the Town Council Clerk, had alleged that the subject Member, a Town and District Councillor, had failed to treat her with respect and had bullied her.

The subject Member had served on the Standards Committee for four years.

The allegations related to:

- a telephone conversation between the subject Member and the complainant regarding the union flag being taken down from the Town Hall, during which it was alleged that the Councillor had commented that "*you are going to be in for a very rough ride, this is war*" and that "*your attitude stinks*".
- various emails sent by the subject Member to the Town Clerk relating to the flying of the union flag, which the Member strongly felt should be flown from the Town Hall on a daily basis. They contained such comments as:

*... she will find herself with a virtual war on her hands ...*

*You forgot yourself Town Clerk you DID say exactly what I quoted and I stand by that...*

and the councillor suggested that she might want to take legal advice as "*I am afraid that we will not let the matter rest.*"

The Standards Committee found this to be bullying behaviour.

- during a public Town Council meeting, the subject Member querying a petty cash claim for £20 by the complainant for a working lunch, on Town Council business, for four people including external consultants. It was alleged that the subject Member stated that as the complainant was on an extremely high salary, much more than

councillors, then she should pay for working lunches out of her own pocket.

The Standards Committee found this to be a failure to treat the Clerk with respect.

- That overall, given these incidents, the Councillor had bullied the complainant.

The Standards Committee had found that the subject Member had therefore breached the Code and suspended him for one month unless he gave a written apology to the complainant prior to the commencement of the suspension.

The subject Member appealed to the Adjudication Panel. He resigned from the Town Council.

In relation to the bullying allegation, the Appeals Tribunal accepted that there was genuine confusion on the Councillor's part as to the legal effect of the resolution at the parish meeting re the flying of the flag. The Tribunal could understand why the Councillor might have been aggrieved that the flag had been taken down on the order of the Town Clerk.

On the basis of the findings of fact above, the Appeals Tribunal found itself unable to hold that the terms of the telephone conversation were anything other than a **direct and robust challenge** of an officer's decision by a councillor. Whilst the forceful nature of that call would have been difficult for the complainant, the Tribunal did not consider that this amounted to disrespect or bullying.

Regarding the emails, the subject Member said he had intended to reflect the depth of feeling about the issue and warn the complainant that things could get out of control, not that the words should be taken literally.

The Appeals Tribunal accepted this account, having regard to the terms of the

subsequent emails which predominantly concerned a legal issue and possible next steps (legal action, a survey and the taking of a parish poll) by the group campaigning in favour of flying the flags, which would have been action taken against the Town Council, not the complainant personally.

The Tribunal was therefore of the view that the telephone conversation and the subsequent emails were forceful, challenging and would have been uncomfortable for the Town Clerk to deal with. However, she was the most senior officer at the Town Council and could be expected to handle robust and direct challenges by councillors. The tone used by the Councillor was unfortunate, but did not amount to either disrespect or bullying.

The Tribunal felt it was unconscionable that the Councillor should have suggested that the Town Clerk pay for council expenses from her own pocket. It was moreover deeply disrespectful to have referred to her salary level, in a public meeting, in the way that he did. These were matters which ought to have been raised in a measured way, outside of the meeting and certainly not in a public forum. This was therefore a **failure to treat the complainant with respect**.

Regarding the Standards Committee's overall finding that the Councillor had bullied the Town Clerk, the Appeals Tribunal had concluded that the matters relating to the flying of the flag had not amounted to a breach of the Code.

As such, in considering whether there had been bullying, it was only looking at the expenses allegation. The Tribunal took into account the Standards Board guidance on bullying and its suggestion that a one off incident could give rise to bullying.

The Appeals Tribunal considered that, whilst this could arise, there would more normally be a pattern of conduct giving rise to a finding of bullying. **For a one-off incident to amount to bullying, as opposed to disrespect, it would need to**

**be of a serious nature and characterised by an abuse of power**, something over and above just the fact that the matter involved an officer and councillor. An example of this might be a threat of dismissal by a senior councillor or one with direct involvement in the officer's area of responsibility.

Whilst the Appeals Tribunal was very critical of the Councillor for the way he had behaved regarding the expenses claim, **it did not consider that this was bullying**.

The Tribunal did, however, consider that the breach arising from the expenses incident was sufficiently serious to warrant the sanction imposed. The Councillor could have mitigated the length of suspension by providing an apology, but had failed to do so. Without the period of suspension, there would be no effective sanction for failing to provide the apology.

### **Dartmouth Town Council**

The SFE Press Office issued a press release regarding the following case.

A Dartmouth Town councillor was **disqualified** for three years following a Standards Board investigation.

The Adjudication Panel for England agreed with the Standards Board's Ethical Standards Officer ("ESO") that the councillor in question ("the subject Member") had breached the Code of Conduct by bullying a council officer, treating a council officer and several councillors with disrespect, and bringing his office and the council into disrepute.

The subject Member, who is also a former District Councillor, was alleged to have bullied and undermined the town clerk over a long period. He subjected the clerk at one stage to almost daily visits in the council's offices, during which he would frequently become aggressive, angry and intimidating in front of officers and members.

The subject Member also repeatedly accused the clerk of incompetence, to his face and to others.

The subject Member's conduct at council meetings, attended by the local press and the general public, was often aggressive, and was so disruptive that on one occasion, a senior police officer attending the meeting believed it to be verging on public disorder and considered intervening.

The subject Member was also disrespectful to other members, referring to the mayor as a 'bl\*\*dy hypocritical b\*\*ch', and claiming in a letter to a new member that two of their fellow councillors were showing 'signs of serious dementia'.

Council staff found his discussions with other members so heated that they had to ask for the conversations to be held elsewhere, as they disturbed the running of the council office.

Dr Robert Chilton, chair of the Standards Board, said: "[the subject member's] conduct was not only personally distressing to a number of individuals, but also brought his office and authority into disrepute and affected the smooth running of the council.

"People have every right to expect high standards from those elected to represent them, and in falling so far short of those standards, [the subject member] has seriously undermined the public's trust and confidence in local democracy. The three-year disqualification recognises this, and sends a clear message to the electorate that councillors who breach the Code of Conduct can be brought to account."

### **West Somerset District Council**

The Council considered a private report containing information about a redundancy settlement for the Chief Executive and personal information relating to the Chief Executive. The Leader emphasised at the meeting that information in the report was confidential and must remain so.

Following the meeting, the subject Member communicated with the press and based on the confidential report disclosed the details of the Chief Executive's redundancy package. At the time the Member communicated with the press, he did not know whether the agreement with the Chief Executive had been concluded.

The Member argued that he had deliberately breached confidentiality as "An act of protest at what I consider to be a serious public injustice". He felt that his disclosure was in the public interest as it related to his view about officer accountability and argued that a significant part of the blame for the Council's financial difficulties was the responsibility of the Chief Executive who, he considered, should have resigned or been dismissed.

The Case Tribunal noted that the subject Member was relatively inexperienced and that he had decided to do the best by his constituents however, he had released information which was clearly provided to him in confidence and where harm could have been caused. The Tribunal considered it a serious matter to disclose confidential information in breach of the Code.

The Tribunal noted that although the Member had accepted that he had breached the Code, he had not expressed contrition. The Tribunal also noted that he had considered the Code of Conduct to provide unwelcome restraints on what he could do as a Councillor.

The Tribunal considered that as a matter of good governance the Council and Council employees should be entitled to be able to rely on Councillors to keep confidential information that was properly provided to them during "exempt" business.

Taking all these factors into consideration, the Tribunal decided to suspend the Councillor from being a member of the council for a period of three months.

## **Gosport Borough Council**

The SFE Press Office issued a press release regarding the following case.

The former deputy leader was disqualified from office for two years, for failing to declare interests in matters relating to a live music festival he hoped to stage, and for bringing his office and authority into disrepute.

The subject Member was an events organiser and had been liaising extensively with the council over his plans to stage a music festival on council-owned land. Licences for alcohol sales and live entertainment were required.

The subject Member refused to declare an interest or leave the meeting, even when prompted, during a council meeting in which a motion was proposed which included reviewing the terms of the arrangements between him and the council. He also voted against the motion to change the terms of his agreement with the council over the fees and licensing for the festival. The motion was lost by 16 votes to 17. Had the motion been tied, the Mayor - who had voted in favour of it - would have been given the deciding vote.

## **OTHER CASES**

### **Birmingham City Council**

A Birmingham City Councillor (the subject Member) had been concerned about the state of a building. He and another councillor decided to enter the building to film inside it. He subsequently published an edited version of the video material on the internet. The subject Member considered he was entitled to enter, as an accompanying constituent had a right of way.

The owner (the complainant) arrived while the subject Member was still on the land. The owner made a complaint to the Standards Committee, which found that the

Member had breached the Code of Conduct, because he had failed to treat the owner with respect.

The Standards Committee decided that the subject Member should be censured and suspended for one month, unless he gave a written apology to the complainant within 14 days and published the apology on his website for one month. The Standards Committee also accepted the subject Member's offer to withdraw the video.

The subject Member appealed. The Case Tribunal rejected his argument that he was acting in his private capacity as a local campaigner, and upheld the finding of disrespect, and amended the sanction so that it was unconditional on an apology.

The subject Member sought judicial review of the Tribunal's decision.

The Court found that the Tribunal had erred in law (through procedural unfairness) by not alerting the subject Member to the fact that it was considering the removal of the opportunity to avoid a suspension. The Tribunal decision of breach of the Code was upheld but the issue of sanction should be considered by a different Tribunal.

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#### **Resources**

[www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)  
SBE Bulletins  
[www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk)