

# Standards

## **BOROUGH OF TELFORD & WREKIN**

### **Ethical Standards Bulletin – Winter/Spring 2005/06**

Welcome to the latest Ethical Standards Bulletin. This Bulletin is circulated to all Members of the Borough of Telford and Wrekin, Members and Officers from the Shropshire and Wrekin Fire Authority, and to all Parish and Town Councils in the Borough.

#### **Date for the next Standards Committee Meetings:-**

1. The next meeting of the Standards and Audit Committee for the Borough of Telford and Wrekin will be at 6 p.m. on 4 April 2006
2. The next meeting of the Standards Committee for the Shropshire and Wrekin Fire Authority will be on 26 April 2006 at 5 p.m.

#### **Reminders:**

Registerable Interest Forms – All members are reminded that they should ensure that their Registerable Interest Forms are kept up to date. In the event of any change of circumstances in respect of your registerable interests you should make sure that your form is amended within 28 days as failure to do so will constitute a breach of the Code of Conduct. During a recent audit of Registerable Interest Forms it was noted that some forms have not been updated since 2002. Whilst there may not have been any changes in your Registerable Interests since that date, it is recommended that Members should review their Registerable Interest Forms on a regular basis in order to ensure that they are up to date and correct. Members of the Borough Council who are also members of a Parish or Town Council and/or the Shropshire and Wrekin Fire Authority are reminded that they should complete separate Registerable Interest Forms for each and ensure that all are up to date. If you wish to check the details in your current Registerable Interest Form you can do so as follows:-

- (1) Parish and Town Councillors – please contact your Clerk who retains a copy of your Registerable Interest Form

- (2) Members of the Shropshire and Wrekin Fire Authority - please contact Sharon Lloyd (Contact details set out at the end of this bulletin) for a copy of your form.
- (3) Members of the Borough of Telford and Wrekin - please contact Democratic Services for a copy of your form.

### **Government Announce Proposals for Changes to Standards Committees and the Code of Conduct for Members**

On the 15<sup>th</sup> December 2005 the Office of the Deputy Prime Minister published a discussion paper entitled "Standards of Conduct in English Local Government: the Future". The document sets out the Government's proposals for changes to the processing of complaints made against Members in respect of possible breaches of the Code, and changes to the Code of Conduct applying to elected Members. The proposals are to introduce a local system for receiving, investigating and processing complaints against elected Members. The intention is for the Standards Board for England to adopt a more strategic role, and only to undertake a small amount of investigations. There are also a number of proposed changes to the Member Code of Conduct including issues such as personal and prejudicial interests and the 'whistle blowing' provision in the Code. None of these changes have been introduced yet. Details of further developments will be included in future editions of this bulletin. In the event that the changes take place there will also be a requirement for all elected Members to undertake training to familiarise themselves with any new rules. In the meantime if you wish to view a full version of the ODPM documents you can do so by way of the web link which is as follows – <http://www.odpm.gov.uk/index.asp?id=1162582>.

### **Going Local: New DVD on local investigations and hearings issued by the Standards Board for England**

The Standards Board have released a new DVD which focuses on local investigations and hearings following complaints of breaches of the Code of Conduct. The DVD lasts approximately 33 minutes and provides the dramatisation of a scenario where an elected Member is subject to a local investigation by a Monitoring Officer that ends with a Local Determination Hearing held by the Standards Committee. Whilst the DVD has been sent to the Monitoring Officer for use with Standards Committee Members, it is also being made available for loan to all Borough Councillors, Members of the Combined Fire Authority and the Parish and Town Councils in the Borough. Accordingly, if you do wish to view the DVD you can arrange for a brief loan as follows

- Members of the Telford and Wrekin Borough Council – contact Matthew Cumberbatch (contact details at the end of this bulletin)
- Members of the Shropshire and Wrekin Combined Fire Authority – contact Sharon Lloyd (contact details at the end of this bulletin)
- Members of Parish/Town Councils in the Borough – contact Matthew Cumberbatch via your local Parish/Town Clerk

## **New Code of Conduct Training Sessions Planned**

Following the success of the Code of Conduct Training Seminars last year, further sessions are being planned for the 2006/07 Municipal Year. Further details will be provided when arrangements have been finalised.

## **Update on recent Adjudication Panel Decisions**

Enclosed is a further summary of recent cases heard by the Adjudication Panel for England in respect of alleged breaches of the Code of Conduct. The cases are useful in showing the types of matters which are currently subject to investigation and result in hearings before the Adjudication Panel. The summaries also show the types of sanctions imposed upon Councillors who have breached the Code together with other recommendations which the Adjudication Panel have considered to be appropriate. The summary has been prepared by the Chartered Institute for Public Finance and Accountancy, who point out when producing the enclosed details, that the summaries are not a substitute for reading the full details of the case. If you do wish to view more detailed transcripts of the Adjudication Panel hearings you can do so by visiting the Adjudication Panel's website at [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk).

## **CONFIDENTIALITY**

### **Milton Keynes 293**

Complaint related to the sending by the Council Leader of a report about the conduct of a Councillor in another party to that Councillor's employer. Paragraphs 3(a), 4 and 5 were considered but the Tribunal did not find that any of them had been breached.

### **Westminster 241**

The Leader of the Opposition had disclosed to the media information marked "confidential" in emails from the Monitoring Officer. The Councillor and the ESO were represented by Queens Counsel and put before the Tribunal a considerable exposition on the law relating to confidentiality and Articles 10(1) and 10(2). The Tribunal recorded its detailed analysis of the balancing act required between freedom of expression and confidentiality rights. The Tribunal concluded that the councillor was not acting in the public interest and had breached paragraph 3(a).

Decision - No sanction due to several mitigating factors

## **DISREPUTE AND DISRESPECT AND SECURING ADVANTAGE ETC**

### **Horsham**

Councillor was found to have brought office of councillor into disrepute by not complying with licensing and planning law relating to activities and accommodation on her property; not being honest and open about business activities on her property; not before taking steps to ensure business on her premises was correctly registered and paying council tax; not taking immediate and appropriate steps to deal with issues relating to residential occupation of unsafe and dangerous premises; and by reiterating to council officers that she would use her position on the Council to her advantage if she could.

Decision – 2 year disqualification.

**Bude-Stratton 301**

Councillor asked sister in law (who worked on mental welfare matters for another Local Authority) to write a letter on her employing authority's headed notepaper about matters related to the conduct of the Town Clerk which was then distributed by the councillor to other members of the Town Council. Tribunal found that paragraph 4 had been breached but did not find breaches in relation to other paragraphs which were complained of. Councillor had resigned.

Decision – Reprimand

**Hackney 295**

Councillor was convicted of benefit fraud having failed to disclose his basic member allowance of £8,000 pa and in spite of a memorandum of guidance to all members from the Monitoring Officer on the need to disclose the allowance.

Decision – 2 year disqualification.

**Wokingham 294**

Councillor had been convicted of being in contempt of court.

Decision – 6 months disqualification.

**Ipswich 289**

Former Council Leader wrote two letters on council members' headed notepaper to the young daughter of a fellow councillor in his own hand and signed one in the name of the Chief Executive. Tribunal formed the view that conduct was foolish and inappropriate and silly and a childish practical joke but did not bring council into disrepute. Tribunal considered councillor was wrong to sign letter in name of Chief Executive but that the use of the headed notepaper did not breach 5(b) as the council did not have the protocol that covered this at the time.

Decision – No breach

**Ravenfield 285**

Councillor had sought to frustrate the rights of other councillors to see documents and to be involved in decisions of the Council, had acted unlawfully and knowingly misled a government department; had knowingly misled council meetings; had expressed a wish to disrupt the workings of the council if she was re-elected to it.

Decision - 4 year disqualification

**Maldon 283**

Councillor assaulted another councillor during a wreath laying ceremony and had already served a five month suspension for assaulting the same councillor on another occasion.

Decision – 6 months disqualification.

### **Gloucestershire 282**

Councillor was convicted of criminal offence involving taking of improper photographs of women without their consent or knowledge in a public place on a number of occasions.

Decision – 1 year disqualification. Tribunal took into account long period of Service including cabinet member of County Council, District Council Standards Committee, and police authority.

### **Tewkesbury 281**

Councillor sent rude and intemperate emails and letters to other councillors and had breached 2(b) of Code; had made a rude, disrespectful and threatening telephone call; had used extreme and threatening language contrary to paragraph 4 of the Code; had used threats and physical force against another councillor.

Decisions - 1 year suspension. Tribunal took into account mitigating factors including apology, medical evidence and long service and commitment.

### **Leiston 279**

Councillor was breathalysed and found to be more than three times over the legal limit whilst driving. When police officer opened boot of car, a truncheon and machete were found which the councillor said he kept for self defence. Councillor was convicted of offences arising.

Decision - 2 year disqualification

### **Berwick 278**

Councillor insisted on making a complaint about a named officer at an open Council meeting in spite of Monitoring Officer's advice that this only be done in closed session.

Decision - 1 year suspension.

### **Vale Royal 273**

Councillor had accepted a police caution after being arrested for using a Council laptop computer to download inappropriate material including child pornography from the internet. The material had come to light during the course of a routine upgrade by Council staff. Tribunal took into account resignation from office, acceptance of police caution and acknowledgment that he had breached Code.

Decision – Disqualification for 4 ½ years.

### **Stowmarket 260**

Councillor alleged to have made a racially offensive comment to a member of library staff. Tribunal's decision contains a useful exposition of thinking on the requirement for having reasonable proximity or reasonable capability of linking, or having a bearing on, official capacity against the background of the freedom of expression provisions in Article 10 of the EHCR and the phrase "any other circumstance" in paragraph 4 of the Code

Tribunal considered the case to be borderline. It accepted councillor's submission that this was an attempt at a poor joke without bad motive but using poor racial

epithets and took into account his serious ill health and discharge from hospital the previous day. Tribunal was not satisfied that the words spoken were “in any other circumstance” for the purpose of paragraph 4 of the Code.

Decision - No breach

**Cloughton 245**

Councillor, who was the Council’s Youth Liaison Officer, was asked to help by the owner of a bungalow who was being subjected to anti social behaviour by 3 minors of approximately 15 years of age. The councillor grabbed one minor by the neck, dragged him away and threatened him. The councillor had since apologised and indicated he wished he had sought assistance from the local police who gave evidence of his good character.

Tribunal took into account councillor’s good record of 5 years service, absence of an apology from minor or his mother for loutish behaviour and made its views known on this sort of behaviour in society. It acknowledged that some form of sanction would nevertheless be appropriate and proportionate.

Decision - 2 months partial suspension from any formal role in relation to children and young persons.

Publicity - The ESO had asked that the press and public be excluded from the hearing to ensure no prejudicial publicity for the minors if their names were inadvertently revealed. The Tribunal decided there was a public interest in the hearing being held in public but directed that the names of the minors should not be disclosed and that, if they were inadvertently revealed, they should not be made public.

**Lincolnshire 258**

Former Council Chairman visited husband at police station following his arrest for drink driving. As she drove away from the police station she was stopped and asked to provide a breath sample but failed to do so and was subsequently fined and banned from driving for 18 months.

Decision - No sanction; Councillor had been defeated at the recent election. In the Tribunal’s view, a disqualification would have been excessive, although had she still been a councillor, Tribunal indicated it would have suspended her for a substantial period.

**North West Leicestershire 259**

Councillor had been given a conditional discharge after pleading guilty to an offence under the Public Order Act 1986. Under provocation, he had used intemperate and insulting language to another councillor which was heard by members of the public. At the time of events, the councillor was naïve and inexperienced and it was evident that he had learnt the error of his ways.

Decision - Reprimand

### **Islington 216**

Councillor on the selection panel for a Chief Executive was accused of applying a criterion not included in the person specification. Tribunal was not satisfied that the interpretation placed on the wording of the specification by the councillor was unreasonable; the Tribunal was satisfied that this particular criterion was applied fairly by the councillor to all candidates.

The Tribunal expressed concern that the councillor had received no training on recruitment and selection or equal opportunities and that the Council's procedures were apparently ignored at the short-listing meeting, notwithstanding the pressure of the Monitoring Officer. Notwithstanding the Council's requirements that adequate and legible notes of interviews should be maintained, the notes available to the Tribunal of a very important short-listing meeting were incomplete, inadequate and provided no evidence of a systematic approach to the process.

Recommendation - Council should review its recruitment and selection Procedures and ensure participating members are adequately trained and that recording of decisions within those procedures is properly documented.

### **Nottinghamshire 251**

Case concerned a Councillor attending a Masters Degree in Public Administration course at public expense and the administrative procedures surrounding this within the Council, an international study tour in the USA, and the cost of over £2,000 incurred in using business class flights booked for the Councillor by the Chief Executive, all of which had attracted adverse media publicity.

Decision - Insufficient evidence to warrant finding Code breached.

Recommendation - County Council should review its administrative procedures for members' training.

### **Slough 255**

Councillor reported himself to the Standards Board for mistakenly failing to disclose his convictions on an application form for a renewal of a hackney carriage licence. Tribunal found that his regret was sincere and that the breach was inadvertent.

Decision - No action.

Recommendation - Application Forms referred to should be made available in languages other than English and clear guidance should be made available to applicants including the necessity to disclose all previous convictions.

### **Banham 249**

Councillor launched a series of sustained, premeditated, intimidatory actions and threats against a member of the public whom he pursued on a public footpath after spying on him with a video camera, and ambushing him with two rottweilers and a friend of which he received a police caution. He also launched a pre-meditated tirade of abuse and insult against a member of the public present at a parish council meeting.

Decision - 4 years disqualification.

Recommendation - Parish councillors should receive induction training as soon as they become members of the parish council and training of clerks and Chairmen of parish councils should be encouraged to assist them in running effective meetings.

## **DECLARATION AND REGISTRATION OF INTERESTS**

### **Cumbria 292**

Councillor failed to declare any interest at a number of meetings concerning road scheme affecting the road in which he lived contrary to paragraph 12 and carried out a door to door survey in the road in a way which breached paragraph 4.

Decision - 9 months disqualification.

Recommendation - County Council might wish to consider a greater consistency in procedure at all its relevant meetings to ensure that the identity, status and roles of attendees is recorded and that appropriate opportunities are provided for declaration of interest.

### **Norton Caines 290/291**

Two councillors had failed to declare personal interests and the nature of those interests relating to development of a church hall site. Part of the case revolves around the application of the well-being test. Tribunal took into account that they were elected only fairly recently and had not received much training in the Code and that their evidence showed an unsatisfactory understanding of the Code and its application to personal interests. Tribunal took into account that much had been done since the complaints to improve the situation.

Decision - Reprimand

Recommendation - Respondents should be provided with training from the Monitoring Officer and the Monitoring Officer should be requested to meet with the Parish clerk and others to review and give guidance and support as necessary on general governance issues.

### **Berwick 278**

Councillor failed to declare at several meetings any interest in council land the subject of a development proposal. His daughter lived in close proximity to the land, used it regularly for recreation and had lodged an objection to the development proposals. Councillor continued to attend meetings without declaring an interest even after being put on notice that he should consider his position.

Decision - 1 year suspension

### **Hungerford 268/269**

Case involved alleged breaches of 2c, 4, 5a, 10a and 10b and concerned Town Council's observations to District Council on planning applications, site visits, planning application by Town Clerk who was close personal friend of Council Chairman, failing to declare a prejudicial interest in a grant application from a body of which the respondent was the Chairman.

Decision - 12 months suspension from Council's Planning and Finance Committees

### **Southsea 266**

A former councillor had failed to disclose a membership of certain organisations in the register as required under 13 (c) of the Code. He had also refused to confirm whether or not he was a member of the Freemasons and was, as a result, held to be in breach of paragraph 4.

Decision - Disqualification for one year for breach of paragraph 4 but no sanction for breach of 13(c) because of the individual circumstances.

### **Lyme Regis**

Councillor accused of a large number of breaches, mostly relating to declaration of interest provisions and contained in over 600 pages considered by the Tribunal. Tribunal took into account councillor's long service, willingness to apologise to the Council and length of time since events complained of.

Decision - 6 months disqualification

Recommendation - In view of large number of concerns revealed about the conduct of some aspects of the Town Council's business, the District Council was recommended to review, identify and provide any training that would assist the Town Council with the discharge of its functions, and in particular Code of Conduct training required by the Town Council members.

## **BULLYING**

### **Wigan 248**

Councillor insisted on a private meeting with an officer during which he attempted to coerce him to influence a subordinate officer against giving evidence about him at a forthcoming APE hearing at which the councillor was due to appear. Councillor was already disqualified for 3 years by a previous case tribunal some 18 months before,

Decision - Disqualification for 2 years which would mean his existing disqualification would be extended

### **High Peak 256**

Councillor sent numerous inappropriate and abusive emails to members and officers which were often copied to organisations outside the authority. He was in breach of the Council's bullying and harassment policy, its protocol on the use of ITC and in breach of the Chief Executive's guidance on complaints about officer conduct. The Chief Executive had withdrawn the Council provided laptop from the councillor and banned him from using the Council's intranet but he continued his practices by using other means.

Decision - 2 years disqualification.

### **Forest Heath 253**

Councillor made malicious allegations about an officer's integrity and professionalism on a letter to the Leader, Chief Executive and other senior officers and members. He was found to have breached 2(b) and 4 of the Code. The Full Council endorsed the decision of its Planning Committee to approve a vote of confidence in the officer and refer the member to the Standards Board. The officer had been very distressed about the allegations and instructed his own solicitors.

The letter was written before an internal investigation had been completed into the matter which did, in fact, raise legitimate concerns about recording procedures and protocols at council meetings which were subsequently addressed. Councillor, during the hearing, apologised for his conduct but there was no evidence that he had previously apologised or expressed any contrition for the obvious distress he had caused the officer.

Decision - 9 months suspension

Recommendation - Councillor should make a written apology to the officer for making unsubstantiated allegations against him.

### **NEXT BULLETIN**

If you have any suggestions for items to be included in the Summer edition of the bulletin please contact either Matthew Cumberbatch (comments from Borough of Telford & Wrekin and Parish and Town Councillors) or Sharon Lloyd (Comments from Shropshire and Wrekin Fire Authority members). The contact details appear at the end of this bulletin.

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