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ANNUAL RETURN TO THE STANDARDS COMMITTEE

To consider and respond to the Annual Return. 1 - 16

(Copy of Annual Return circulated)

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FIRST-TIER TRIBUNAL (LOCAL GOVERNMENT STANDARDS IN ENGLAND)

To receive a report from the Assistant Chief Executive/ Deputy Monitoring Officer 17 - 22

(report circulated)

6

UPDATE ON CASE LAW

To receive details of recent case law from the Head of Legal Services/Monitoring Officer. 23 - 34

(report circulated)

The next meeting of the Standards Committee will be held on Wednesday 2 June 2010 at 4.30 pm

Membership -

Professor B Kirby (Chair), Councillors Boyle, S Brock, Mrs Danks, D J Morrish, Newcombe, R Smith, Starling and Sterry

Independent members:

Andrew Mimmack and Lynda Smith

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Annual Return 2010

This document is a list of the questions you will be asked in our 2010 Annual Return. The Annual Return will be an online form, accessible via our website. When we launch the online version you will be able to use the same login details that you use when accessing the quarterly return.

We have provided you with the questions early so that you can prepare in advance of the submission window, which will be either late March or early April 2010. An announcement containing the exact details of this will be made at a later date.

This will hopefully give you the opportunity to discuss the questions with your standards committee and other parties as necessary.

For those of you who completed last year's annual return, you will notice that only a handful of the questions are the same. We have made some significant changes to enable us to gather new information about how the local standards framework is functioning. There are 5 sections this year, communication, influence, training and support, investigations and a section only for authorities with parishes.

As with last year, the information you give us will feed into our Annual Review and we will be looking for items of notable practice to share with the standards community. We will once again be sharing your responses with the Audit Commission, to help inform their organisational "Use of Resources, Key Line of Enquiry" assessment.

When considering the questions, please refer to the guidance notes, as they will give you more details about the question and how to answer it.

If you are unsure about anything in this document, please contact our monitoring team on 0161 817 5300 or by emailing authorityreturns@standardsforengland.gov.uk.

PART 1: COMMUNICATION

The main roles of a standards committee are:

- to promote and maintain high standards of conduct by members
- to assist members in observing the Code of Conduct.

Your responses to this section will help us to collect examples of the different ways that standards committees communicate messages about ethical standards, both within the authority and to the wider public.

Annual Report

1) Does the standards committee produce an annual report?

YES/NO. If yes go to q2. If no go to q4

2) What does the report contain?

- A personal statement by the standards committee chairman
- Information about the members of the standards committee
- The role of the standards committee
- The standards committee terms of reference
- Information about the Code of Conduct
- Statistical information about complaints that have been received
- Information about the length of time taken dealing with complaints
- A summary of complaints which have led to investigation, sanction or other action
- Details about training/events provided
- The forward work plan of the standards committee
- Other (*You will be asked for more details if selected*)

3) How is the standards committee annual report circulated?

Note: If your return is not on the website please forward a copy to us. See the guidance notes for details.

- Sent to all senior officers
- Sent to all members
- Sent to parish/town councils (This is only displayed if your authority is applicable)
- Available on the authority intranet
- Available as a specific item on the authority website (You will be asked for the website address if selected)
- Available in the standards committee papers published on the authority website (You will be asked for the website address if selected)
- Included as a full authority meeting agenda item
- Publicised in local newspaper / press release
- Distributed to households
- Available at authority offices
- Not circulated outside of the standards committee
- Other (You will be asked for more details if selected)

Publicising Complaints

4) How can the public access information about how to make a complaint against a member?

- Through a 'compliments and complaints' type section of the council website (You will be asked for the website address if selected)
- Through the standards committee section of the website (You will be asked for the website address if selected)
- Complaints leaflets available from the authority
- Included as part of a council newsletter
- Advertised through parish councils
- Information is not available to the public
- Other (You will be asked for more details if selected)

5) How can the public access information about the outcome of initial assessment decisions?

- Written summary available for public inspection
- Press release issued for all initial assessment decisions
- Press release issued only if the subject member agrees
- Assessment decisions published on the authority website
- Articles published in the authority newsletter
- Other (You will be asked for more details if selected)

6) How can the public access information about the outcome of investigations?

- Hearings are open to the public
- Press release issued for all investigation outcomes
- Press release issued only if the subject member agrees
- Published on the authority website
- Decision notices are available for public inspection
- Articles in the authority newsletter
- Other (You will be asked for more details if selected)

7) Do you have a mechanism in place for measuring the satisfaction of all those involved in allegations of misconduct? For example the member, complainant and witnesses.

YES/NO. If yes go to q8. If no go to q9

8) If yes, please can you describe the process?

Open question

Communicating the role and work of the standards committee and standards generally

9) What does the authority do to promote the work of the standards committee and standards generally to the rest of the authority (i.e. internally)?

- Dedicated standards committee pages on intranet
- Standards committee has its own newsletter / bulletin
- Standards committee issues briefing notes
- Articles in employee newsletter / bulletin
- Standards committee independent members **observe** other authority meetings
- Standards committee independent members **contribute** to other authority meetings (*a box will appear to ask for further details about what kind of contribution*)
- Other (*you will be asked for more details if selected*)

10) How can the public access information about your standards committee?

- Dedicated standards committee section on the authority website (*you will be asked for the website address if selected*)
- Within 'council and democracy' type section of website (*you will be asked for the website address if selected*)
- Ethical standards issues have been included in the local press / media
- Standards committee minutes, agendas, and reports are available to the public
- Leaflets and/or posters are placed in public buildings
- Places articles in the authority newsletter / bulletin / other publication
- Standards committee meetings are observed by members of the public
- Information is not available to the public
- Other (*you will be asked for more details if selected*)

11) What else does the authority do to promote the work of the standards committee and standards generally to the public and other partners?

Open question

PART 2: INFLUENCE

A key factor in creating a strong ethical framework in authorities is clear ethical leadership from leaders and chief executives, setting the tone for the rest of the organisation.

Your responses to this section will help us to understand how closely your standards committee works with political and officer leadership in the authority, and the ways in which the leadership encourages strong ethical standards.

12) How does the standards committee communicate ethical issues to the senior figures within your authority (for example the Chief Executive and Leader of the Authority, Party Leaders)?

- Formal meetings between standards committee members and senior figures specifically set up to discuss standards
- Informal discussion on particular standards issues
- Senior figure attendance at standards committee meetings
- Monitoring Officer is a member of or attends Corporate Management Team (or equivalent) meetings
- Executive or senior member has portfolio responsibility for standards
- Chair (or other standards committee member) addresses full authority meeting(s)
- Other (*you will be asked for more details if selected*)

13) How do the senior figures in your authority demonstrate strong ethical values?

- Through a strongly promoted whistle-blowing policy
- By ensuring there are references to ethics in the authority vision / objectives
- Demonstrating appropriate behaviours
- Senior figure(s) makes personal commitment to standards in statements to public/employees
- Other (*you will be asked for more details if selected*)

14) Does your authority have a protocol for partnership working that outlines the standards of behaviour expected of all those working in partnership?

YES/NO

15) What mechanisms does the authority use for dealing with member/officer and/or member/member disputes?

- Informal discussion/mediation
- Monitoring Officer mediation
- Chair of standards committee mediation
- Senior figure mediation (e.g. Chief Executive)
- Advice from Human Resources department
- Solicitor / legal adviser consulted
- Informal hearing
- No mechanisms other than normal complaints process
- Other (*you will be asked for more details if selected*)

PART 3: TRAINING AND SUPPORT

A specific function of a standards committee is to train members on The Code of Conduct, or arrange for such training. A standards committee can also arrange training on the local standards framework. Your responses to this section will help us to form a view about what the most common topics and methods of training are so that we can share them with the rest of the standards community.

16) Between 1 April 2009 and 31 March 2010, has the authority assessed the training and development needs of authority members in relation to their responsibilities on standards of conduct?

YES/NO. If yes, go to q18. If no, go to q17

17) If no, please give your reasons why?

Open question. Go to q19

18) If yes, what needs were identified?

- Introduction to the Code of Conduct
- Elements of the Code of Conduct
- The role and responsibilities of the standards committee
- Ethical governance/behaviour
- None

19) What training/support was provided during the period 1 April 2009 to 31 March 2010?

- Introduction to the Code of Conduct
- Elements of the Code of Conduct
- Role and responsibilities of the standards committee
- Ethical governance/behaviour
- Other (You will be asked for more details if selected)
- None (go to q25)

20) Who received training/support?

- Standards committee chair
- Independent members
- Other standards committee members
- All authority members
- Specific authority members with particular needs (e.g. new members, planning committee members)
- Other (*you will be asked for more details if selected*)

21) What methods were employed to give training/support?

- Internal training (presentations/seminars/workshops)
- External trainer/speaker
- One on one training
- Joint/regional training event
- Online learning
- Guidance notes/briefing materials
- Standards for England materials
- Ethical governance toolkit
- Other (*you will be asked for more details if selected*)

22) In which areas of the Code of Conduct has training/support been provided?
(*Only displayed if 'elements of the Code of Conduct' is selected at q19*)

- Respect
- Personal/Prejudicial Interests
- Use of resources
- Bullying
- Disrepute
- Predisposition, Pre-determination and bias
- Equality
- Confidentiality
- Other (*you will be asked for more details if selected*)

23) What other training/support has been provided on areas of an authority member's role or activities they may engage in?

- Chairing skills
- Lobbying
- Predetermination, Predisposition and bias
- Blogging and/or the use of social media
- Electioneering
- Freedom of Information (FOI)
- Other (*you will be asked for more details if selected*)
- None

24) In general, how well attending was the training provided?

- 75% or more of those invited
- 50-75%
- 25-50%
- 0-25%

25) Please give a brief overview of how standards issues are covered in your induction process for new members of the authority?

Open question

26) In which areas of the role and responsibilities of the standards committee has training/support been provided for standards committee members? Please tick all that apply. (*Only displayed if 'role and responsibilities of the standards committee' is selected at q19*)

- Initial assessments
- Other action/mediation
- Reviews
- Investigations
- Hearings
- Sanctions
- Other (*you will be asked for more details if selected*)

PART 4: INVESTIGATIONS

27) How many investigations have been conducted during the period 1 April 2009 – 31 March 2010?

Enter number

If the answer is '0', go to q33 (only if your authority is parished). If you do not have parished you will have completed the questions.

If the answer is '1' or more go to q28

28) Of the investigations completed during the period, for how many have external investigators been used?

NOTE: This includes employees of other authorities

Enter number

29) Overall, what was your principle reason for out-sourcing the investigation(s)? (*Only appears the number given in question 28 is more than 0*)

- Impartiality
- Lack of staff resources
- To complete the investigation sooner
- Skills required
- Cost
- Other (*you will be asked for more details if selected*)

30) What type of external investigator(s) did you use?

- Employee of another authority
- Self-employed investigator
- Private law firm
- Other (*you will be asked for more details if selected*)

31) For the period 1 April 2009 to 31 March 2010, what was the approximate total cost of fees paid to the external investigator(s)?

Open question (for an amount)

32) Please provide a brief overview of the processes you have in place to ensure the quality of local investigations.

Open question

PART 5: RELATIONSHIPS WITH PARISH AND TOWN COUNCILS

(You will only be asked these questions if your authority has parishes)

We recognise the value of the vital role parish councillors play in representing their communities. Your responses to this section will help us to build a clearer picture of the level of support and communication between principle and parish/town councils.

33) Has your authority provided training for parish councillors during the period 1 April 2009 to 31 March 2010?

YES/NO. If yes go to q34. If no go to q37

34) If yes, what topics did the training cover?

- Freedom of Information (FOI)
- Confidential information
- Planning
- Lobbying
- Dual-hatted members
- The Code of Conduct generally
- Personal and prejudicial interests
- Bullying
- Other (*you will be asked for more details if selected*)

35) What methods were employed to give training/support?

- Internal training (presentations/seminars/workshops)
- External speakers
- One on one training
- Joint/regional event
- Guidance notes/briefing materials
- Standards for England's materials
- CALC speakers
- Part of wider parish liaison meeting

Other (*you will be asked for more details if selected*)

36) In general, how well attended was the training for parish councillors?

- 75% or more of those invited
- 50-75% of those invited
- 25-50%
- 0-25%

37) Has your authority provided training for parish clerks during the period 1 April 2009 – 31 March 2010?

YES/NO If yes got to q38. If no go to q41

38) What topics did the training for parish clerks cover?

- Freedom of Information (FOI)
- Working with confidential information
- Planning
- Lobbying
- Dual-hatted members
- The Code of Conduct generally
- Personal and prejudicial interests
- Bullying
- Other (*you will be asked for more details if selected*)

39) If yes, what methods were employed to give training/support to parish clerks?

- One on one training
- Internal training (presentations/seminars/workshops)
- External speakers
- Guidance notes/briefing materials
- Standards for England's materials
- Joint authority/regional event
- Other (*you will be asked for more details if selected*)

40) In general, how well attended was the training for parish clerks?

- 75% or more of those invited
- 50-75% of those invited
- 25-50%
- 0-25%

41) Does your council have a COMPACT (a formal agreement with your county Association of Local Councils about supporting standards for parish and town councils in the area)?

YES/NO

42) Describe the relationship between your authority and your County Association of Local Councils in relation to standards. For example, how regularly do you interact with them? Are you involved in delivering joint training?

Open question

43) Standards for England and Teesside University are currently researching the role of the Parish Liaison Officer. Teesside University have created a brief questionnaire to assess the organisational background, functions and skills needed to carry out the Parish Liaison role. Does your authority have a Parish Liaison Officer?

YES/NO/No but there is someone who fulfils the same functions

If yes or someone who fulfils the same functions go to q44. If no go to q45

44) Does the Parish Liaison Officer (or the person who fulfils the same functions) consent for the University of Teesside to contact them to complete a brief questionnaire about their role?

YES/NO If yes you will be asked the details below. If no go to q45.

If yes, please provide contact details (where there are multiple Parish Liaison Officers, just provide one contact):

Name:

Contact address:

Contact phone:

Email address:

45) What steps have you taken when dealing with parishes which have had problems with standards issues? For example, what preventative or capacity building work have you done with parishes?

Open question

46) Which of the following areas would you like Standards for England to produce additional guidance on to support your work with parishes?

- Lobbying
- Predetermination and bias
- Planning and interests
- Dual-hatted members
- Other (*you will be asked for more details if selected*)

EXETER CITY COUNCIL

STANDARDS COMMITTEE

31 MARCH 2010

TRANSFER OF FUNCTIONS OF THE ADJUDICATION PANEL FOR ENGLAND TO THE FIRST -TIER TRIBUNAL (LOCAL GOVERNMENT STANDARDS IN ENGLAND)

1 PURPOSE OF REPORT

- 1.1 To inform the Committee of the abolition of the Adjudication Panel for England and the transfer of its functions to the First-Tier Tribunal (Local Government Standards in England).

2 BACKGROUND

- 2.1 As the Committee is aware, the Standards Committee (England) Regulations 2008 changed the legislation relating to the way in which allegations about the conduct of elected members are investigated, with Local Authorities' Standards Committees now being responsible for receiving complaints and determining the appropriate way of dealing with them.
- 2.2 Regulation 17 relates to the option available to the Standards Committee to refer the matter to the Adjudication Panel for determination by a tribunal. For ease of reference, members may wish to refer to Appendix One which outlines the grounds for a referral by the Standards Committee to the Panel.
- 2.3 On the 18th January this year, the functions of the Adjudication Panel for England were transferred to the First-tier Tribunal (Local Government Standards in England) and the Adjudication Panel for England was abolished. The First-tier Tribunal ('the Tribunal') sits in the General Regulatory Chamber with Charity, Gambling, Information, Estate Agents, Claims Management, Consumer Credit and Transport Tribunals.
- 2.4 The role of the Tribunal is to hear cases referred to it by an Ethical Standards Officer¹ or a Standards Committee following an investigation. The Tribunal will also hear appeals by a subject member against the decision of a Standards Committee.

Additional Powers and Procedures

- 2.5 The First-tier Tribunal now has additional powers and procedures:
 - It has the power to summon witnesses or require witnesses to produce documents relating to its hearings.

¹ An ethical standards officer is someone empowered by the Local Government Act 2000 to investigate allegations referred to them by Standards for England that a member or co-opted member of a relevant authority in England has failed to comply with his or her authority's Code of Conduct. Ethical standards officers conduct each investigation impartially and decide whether the allegation should be referred for a hearing or not. The ethical standards officer may also decide that there has not been a breach of the Code of Conduct or may ask the authority's monitoring officer to take some action instead of investigation, such as training, reviewing procedures or conflict resolution.

- All Tribunal hearings can now be conducted either orally or by written representations with the consent of all parties.
- Hearings can be conducted by less than 3 Tribunal members.
- The President of the Adjudication Panel for England has been appointed as a Principle Judge of the First-tier Tribunal, legal members are now Judges and lay members are members.

Changes to the Appeals Process

- 2.6 Previously any appeal from the Adjudication Panel was heard at the High Court. This process has now changed. Appeals will now be heard by the Upper Tribunal. The Upper Tribunal is an appellate tribunal created by the Tribunals, Courts and Enforcement Act 2007. The Administrative Appeals Chamber is the part of the Upper Tribunal which hears and decides appeals from decisions of the General Regulatory Chamber of the First-tier Tribunal.

Any party may appeal to the Administrative Appeals Chamber of the Upper Tribunal if they can show that the First-tier Tribunal made an error of law.

Additionally, the subject member has the right to appeal findings of fact, if their appeal is against

- (a) a decision that they failed to comply with a code of conduct,
- (b) a decision imposing suspension or another sanction

- 2.7 A further change to the appeals process is that if a subject member is successful at the First-tier Tribunal, it is still possible for an Ethical Standards Officer or Standards Committee to appeal on a point of law to the Upper Tribunal. The First-tier Tribunal will notify the subject member if any of these parties wish to appeal.

Costs

- 2.8 The First-tier Tribunal now has the power to make an order for costs if the Tribunal considers that a party has acted unreasonably in bringing, defending or conducting the proceedings. It may make an order for costs following an application or on its own initiative.
- 2.9 This will mean that the Tribunal can award costs against a standards committee, Ethical Standards Officer or subject member if they have acted unreasonably in the conduct of their investigations or hearings. The First-tier Tribunal may also make an award for wasted costs incurred by any legal or other representative where the Tribunal considers that they have acted negligently, improperly or unreasonably in bringing, defending or conducting proceedings.

3 PROPOSAL

- 3.1 That the Standards Committee notes the role and additional powers and procedures of the Tribunal.

4. RESOURCE IMPLICATIONS

- 4.1 There are no resource implications of noting this report.

5. RECOMMENDED

The Standards Committee is recommended to note the role and additional powers and procedures of the Tribunal.

**BINDU ARJOON
ASSISTANT CHIEF EXECUTIVE/DEPUTY MONITORING OFFICER**

CHIEF EXECUTIVE'S DEPARTMENT

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-Guidance as attached

15 March 2010

Guidance on the circumstances in which the Adjudication Panel would consider accepting a reference from a Standards Committee under Regulation 17 of the Standards Committee (England) Regulations 2008.

1. The Standards Committee (England) Regulations 2008 include provision (Regulation 17 (1) (c)) for a Standards Committee to make a finding that a matter should be referred for determination by the Adjudication Panel. Before such a referral can be made the Standards Committee need themselves to have determined that the action which the Standards Committee could itself take (if there were a finding that there had been a failure to follow the provisions of the Code) would be insufficient. The reference itself can be made only if the President or Deputy President has agreed to accept it.
2. The possibility of such a reference arises only after a monitoring officer has produced a report for the Standards Committee. The President of the Adjudication Panel is willing to indicate, prior to the consideration of that report by the Standards Committee, whether he would agree to accept such a referral. Such agreement would not commit the Standards Committee to making such a referral but would avoid the Standards Committee seeking to refer matters which were not suitable.
3. The maximum sanction which a Standards Committee can impose is a suspension for a period of six months. Thus the primary question to determine as to whether a reference can be accepted is whether, if a breach of the Code had occurred, a more severe sanction than six months suspension would be appropriate.
4. It would be rare for the Adjudication Panel's Case Tribunals to impose a suspension for longer than six months, not least because the effect of such a lengthy suspension might be seen as leading to constituents being left without effective representation at a time when the suspended elected member is not able to fulfil his responsibilities.
5. Less rarely, however, a Case Tribunal will *disqualify* an elected member. Whereas a suspension will apply only to the particular council whose Code of Conduct has not been followed, a disqualification will preclude the member concerned from being appointed to *any* relevant authority. Thus it would be an appropriate sanction for a member whose conduct leads to the view that the member concerned is unfit to hold such public office.
6. The Adjudication Panel has already published guidance (*Guidance on decisions available to a Case Tribunal*) as to when disqualification is likely to be an appropriate sanction. The following is an extract from that guidance:

- 14.1 *The Respondent has deliberately sought personal gain (for either him or herself or some other person) at the public expense by exploiting his or her membership of the body subject to the Code of Conduct.*
- 14.2 *The Respondent has deliberately sought to misuse his or her position in order to disadvantage some other person.*
- 14.3 *The Respondent has deliberately failed to abide by the Code of Conduct, for example as a protest against the legislative scheme of which the Code forms part. Members of local authorities are expected to uphold the law. Where the Code has been deliberately breached to reflect the Respondent's opposition to the principles underlying the legislation, the Case Tribunal is likely to think of a disqualification of one year.*
- 14.4 *There have been repeated breaches of the Code of Conduct by the Respondent.*
- 14.5 *The Respondent has misused power or public assets for political gain.*
- 14.6 *The Respondent has misused council property.*
- 14.7 *The Respondent has committed a criminal offence punishable by a sentence of three months or more imprisonment.*
15. *There may be other factors not listed above which also merit disqualification. Nor will disqualification always be appropriate even if the listed factors are present.*
17. *Disqualification may be imposed as an alternative to suspension in order to avoid an authority being inquorate or the electorate left without adequate representation. Disqualification would allow by-elections to take place whereas this would not be possible if the member concerned were suspended.*
7. The President or Deputy President is likely to agree to accept references for matters which are of a kind which would merit disqualification.
8. It is important to bear in mind that the decisions on whether to refer, and whether to accept such a referral, are being made on the hypothetical basis of a finding that there has been a breach of the Code of Conduct. In taking a decision as to whether to accept a proposed reference, the President or Deputy President would not usually seek to form a view as to how likely it is that such a finding would be made. Nor would they usually seek to form a view on whether there are particular mitigating circumstances which would cause a Case Tribunal not to disqualify a member even though such disqualification might usually be seen as appropriate for a breach of the kind concerned. Those are decisions which should properly be left to the Case Tribunal hearing the case.
9. A reference to the Adjudication Panel should include:
- a brief description of the conduct which has given rise to the complaint
 - details of:
 - when the member was elected.
 - when the member made a declaration to abide by the Code.
 - relevant training the member has received.
 - the member's committee membership or Executive responsibilities; and
 - a note of any appointments to other bodies on behalf of the council and of any membership of other relevant authorities.
 - a copy of the relevant Code of Conduct should be appended.
 - the reference should indicate what paragraphs of the Code have been under consideration.
 - the investigating officer's report to the Standards Committee should be appended. The Standards Board for England has provided a template for such a report in its publication '*Local Standards Framework - Guide for Authorities.*'

- A list giving the names, addresses and contact details of:
 - the respondent.
 - complainant.
 - monitoring officer.
 - investigating officer.
 - Standards Committee correspondent.
 - any legal representatives.

Case Summary - Blackpool Borough Council

Case no. SBE-07585-H4769
Member(s): Councillor Ronald Bell
Date received: 09 Oct 2009

Allegation:

That the member failed to declare payments made to him in respect of his election in his member's register of interests.

That the member had failed to declare a personal and prejudicial interest in relation to council business concerning the person who had made political donations to him.

Standards Board outcome:

Case Summary

The complainant, a councillor, alleged that Councillor Ronald Bell of Blackpool Borough Council (the council) failed to declare two political donations made towards his election expenses in his member's register of interests, and that Councillor Bell had a personal and prejudicial interest in relation to council business concerning the political donor, which he had not declared.

The member's response

Councillor Bell said that he did not consider that two political donations were donations made to him. They were donations made for his party's use in local and general elections campaigns and held in a party account. He did not agree that he needed to register the donations in his register of interests. He did not agree that he had had a personal and prejudicial interest in any council business that concerned the political donor.

Ethical standards officer findings

Councillor Bell is the prospective parliamentary candidate for the Blackpool South constituency. In May 2008 Councillor Bell learned that a local property development company wished to make a political donation to support his general election campaign. Councillor Bell wrote to the company to thank them, and expressed his support, in principle, for the company's proposed housing development in the Marton Moss area. The company made a £5000 donation to Councillor Bell, and suggested a further donation might be made in 2009. The cheque was made payable to the Blackpool South conservative association.

In July 2008 the company made a planning application to develop housing on Marton Moss. The council was reluctant to take a planning decision on any housing development on Marton Moss until their core strategy on housing was complete.

On 18 March 2009 the full council considered an opposition motion opposing the inclusion of Marton Moss in the core strategy for housing. The council's Executive had already resolved to include the area. The motion proposed that the council take no further decisions pending a public consultation on the future of Marton Moss. Councillor Bell declared a personal interest in the motion because he lived and owned a piece of land in the area. The leader of the council proposed an amendment which included removing the requirement for a delay in decisions about the inclusion of Marton Moss in the core strategy. The amended motion was adopted.

In April 2009 a director of the company asked Councillor Bell to arrange a meeting for them with the council. The company was seeking an outcome for their outstanding planning application. Councillor Bell brokered and attended a meeting on 14 April 2009 between the chief executive, the leader, and representatives of the company. Councillor Bell attended as an observer. The company did not get their planning application moved forward. In May 2009 they appealed against the council's non-determination of their application. The company also made a second planning application.

On 7 May 2009 Councillor Bell wrote inviting the company to make a further donation towards his campaign costs. He mentioned his political opponent's opposition to the company's proposals for housing on Marton Moss. The company made a second £5000 donation. The company told Councillor Bell they might make a third donation before the general election.

In August 2009, after an internal party enquiry, Blackpool South conservative association returned the two donations to the company.

The ethical standards officer found that the association had ring-fenced the two £5000 donations for Councillor Bell's use in the parliamentary campaign. Councillor Bell was a creditor of the association in their 2008 accounts for an amount that included the first donation. In June 2009 the chair of the association assured Councillor Bell that both donations were held for his use. The ethical standards officer found that Councillor Bell did expect that the two donations, and any future donation from the company, would be held in the association account for his use as the prospective parliamentary candidate, and not for any other purpose.

The ethical standards officer found that the two political donations were not payments made in respect of Councillor Bell's election as a councillor in May 2007, or in respect of any councillor expenses Councillor Bell incurred. Therefore Councillor Bell was not obliged to enter the two donations in his councillor register of interests. Councillor Bell did not fail to comply with paragraph 13 of the code of conduct.

The Ethical standards officer considered whether Councillor Bell had a potential personal interest in any business of the authority that might reasonably be regarded as affecting either his financial position or well being, or the financial position or well-being of his close associates.

She noted that Councillor Bell's financial position and well being were affected by donations towards his election campaign.

The ethical standards officer found that Councillor Bell had an ongoing relationship of donee/donor with the directors of the company. Given the size of the donations and the importance of them to Councillor Bell, she considered that the directors were people with whom Councillor Bell had a close association.

The ethical standards officer noted that the opposition motion would have delayed the council's final decision on the core strategy relating to Marton Moss and, in principle, could have further delayed a council planning decision on the company's outstanding application. The motion might reasonably be regarded as capable of affecting the financial position of the company. The ethical standards officer considered that Councillor Bell had a personal interest in relation to the motion debated on 18 March 2009 because of his close association with the company. Councillor Bell did not declare the existence and nature of his personal interest arising from that close association at the 18 March meeting. Councillor Bell failed to comply with paragraph 9(1) of the code of conduct.

The ethical standards officer did not consider that the link between the motion and the potential for further delay to Kensington Developments' planning application was so strong as to make it likely that a member of the public, knowing the relevant facts, would reasonably think that Councillor Bell's judgement of the public interest would be prejudiced. The affect on Councillor Bell himself as a donee of the company was similarly remote. Councillor Bell's personal interest in the motion did not amount to a prejudicial interest. Councillor Bell did not fail to comply with paragraph 12 of the code of conduct

The ethical standards officer considered whether Councillor Bell was using his position improperly to advantage himself or another person, when he brokered the meeting between the company and the council. She noted that the leader and chief executive did not know they were holding a meeting with a political donor. She noted that Councillor Bell invited a further donation some weeks after the meeting. However the ethical standards officer considered that the meeting served the public interest in communicating the council's position, and did not give the company any advantage. She noted that the company had already indicated they might make a further donation before Councillor Bell wrote again. On these facts, she did not consider that Councillor Bell was promoting a private interest over the public interest. He had not failed to comply with paragraph 6(a) of the code of conduct.

The ethical standards officer considered whether Councillor Bell's conduct might reduce the public's confidence in his being able to fulfil the role of councillor. She considered that it had been naïve of Councillor Bell to maintain in response to the complaint that the donations were not made to him and held for his use. She noted that it was wholly foreseeable that donations to a serving councillor from a major planning applicant would raise a question in the public's mind. The ethical standards officer noted that Councillor Bell became prospective parliamentary candidate almost immediately after he was elected as a councillor and that the two roles are subject to different obligations and responsibilities. She had seen no evidence that Councillor Bell purposefully concealed his relationship with the company from others. Given the

lack of disreputable conduct by Councillor Bell in his office of councillor, his conduct did not bring his authority into disrepute. Councillor Bell did not fail to comply with paragraph 5 of the code of conduct.

The ethical standards officer took into account that Councillor Bell's personal interest did not prevent him from remaining and participating in the vote on the motion. She noted that Councillor Bell was a relatively inexperienced councillor. She noted that it was not improper for Councillor Bell to have solicited donations from the company for his parliamentary campaign. She took into account that Councillor Bell had not attempted to lobby officers or fellow councillors regarding the company's planning applications.

The ethical standards officer's finding, in accordance with section 59(4)(b) of the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007, was that there has been a failure to comply with the code of conduct but no action needs to be taken.

Relevant paragraphs of the Code of Conduct

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Case Summary - Daventry District Council

Case no. 07649
Member(s): Councillor John Golding
Date received: 15 Oct 2009

Allegation:

The complainant alleged that Councillor Golding: Was verbally abusive to a fellow Parish Councillor after viewing a tree the morning after a Parish Council meeting at which the issue of a planning application relating to the tree had been discussed; Forced a Parish Councillor to reveal confidential information during a meeting of the Parish Council; Invented two complaints that he stated he had received from residents and raised these at a meeting of the Parish Council; and Through consistent disagreements and confrontations had forced a clerk to the Parish Council to resign.

Standards Board outcome:

The ethical standards officer found that the member did not breach the Code of Conduct. The ethical standards officer recommended that training be made available to Staverton Parish Councillors.

Case Summary


The ethical standards officer investigated the circumstances surrounding the allegations and interviewed relevant witnesses. The ethical standards officer found that:

1. The altercation during where Councillor Golding was allegedly abusive did not occur while he was acting or claiming to act in his official capacity as a Councillor and therefore was not subject to the Code of Conduct.
2. Councillor Golding did not unduly force a fellow Councillor to reveal confidential information and there was no evidence that his behaviour in Parish Council meetings had been inappropriate;
3. Councillor Golding had received two expressions of concern from local residents which he subsequently raised as complaints at a meeting of the Parish Council.
4. Whilst there was a series of disagreements between a former clerk and Councillor Golding, Councillor Golding's conduct towards the clerk was never disrespectful or bullying.

Accordingly, the ethical standards officer found that Councillor Golding did not breach the Code of Conduct. The ethical standards officer recommended that the

monitoring officer of Daventry District Council make training on the code of conduct available to Staverton Parish Council members in order to improve the running of the Parish Council.

Relevant paragraphs of the Code of Conduct

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Case Summary - Doncaster Metropolitan Borough Council

Case no. SBE-07972-B1H6A
Member(s): Councillor Peter Farrell
Date received: 09 Nov 2009

Allegation:

It was alleged that Councillor Farrell had, on 29 September 2009, used his council issued laptop and email facility to send a joke based upon religion, contrary to the requirements of the council's Electronic Email Usage Policy.

Standards Board outcome:

The ethical standards officer referred the matter to the First-tier Tribunal for determination.

Case Summary

This case has been referred to the First-tier Tribunal for determination.

For more information on this case, contact the First-tier Tribunal
<http://www.adjudicationpanel.tribunals.gov.uk/>

Relevant paragraphs of the Code of Conduct

The allegations in this case relate to paragraph 5 of the Code of Conduct.

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Case Summary - Blackpool Council

Case no. SBE-07899-MRSE4
Member(s): Councillor A Lee
Date received: 04 Nov 2009

Allegation:

Standards Board outcome:

The ethical standards officer found that the member did not breach the Code of Conduct

Case Summary

The complainants alleged that Councillor Lee failed to declare a personal or a prejudicial interest at a development control committee meeting on 8 June 2009 during consideration of a planning application by Kensington Developments Limited. The application was to build housing in the Marton Moss area of Blackpool.

The complainant alleged that Councillor Lee brought his office or authority into disrepute when he signed a letter stating that he did not know about two donations which had been made to Blackpool South Conservative Association by Kensington Developments. The complainant alleged that Kensington Developments had made the donations to the general election fighting fund for Councillor Ron Bell, who is the Conservative Party's prospective parliamentary candidate for Blackpool South. The complainant alleged that Councillor Lee knew about the two donations when he signed the letter, because his wife was the treasurer for Blackpool South Conservative Association and because Councillor Lee had received one of the cheques which he had passed to his wife.

On 22 July 2008, Kensington Developments submitted an outline planning application for the large scale development of parts of the Marton Moss area of Blackpool. On 14 May 2009 they appealed to the planning inspectorate against the council's non-determination of that application. On 3 June 2009, Kensington Developments submitted a further planning application to the council.

On 8 June 2009, the Council's development control committee considered the first planning application because of the appeal. The committee was asked to say whether the application would have been rejected or approved if it had come before the committee for determination. Councillor Lee was at the meeting and did not declare a personal or prejudicial interest in the application.

Councillor Lee is a member of Blackpool South Conservative Association. The Association maintains a "fighting fund" account. Donations for the prospective parliamentary candidate were put in the fighting fund and were for the exclusive use of the parliamentary candidate's election expenses. No payments are made from the fighting fund to ward members or other candidates.

The ethical standards officer considered that the donations do not amount to an interest that Councillor Lee was required to register. The development control meeting was not considering business which related to or was likely to affect the Association. The business under consideration was an application by Kensington Developments. Kensington Developments would be affected by any decision made by the committee but not the Conservative Association.

Councillor Lee would have had a personal interest if the decision could have affected his well-being or financial position or that of a member of his family or someone else with whom Councillor Lee has a close association, more than that of the majority of the Council's ratepayers, taxpayers and inhabitants. The ethical standards officer found no evidence of this.

In the absence of a personal interest, it is not possible for Councillor Lee to have had a prejudicial interest.

The ethical standards officer therefore considered that Councillor Lee did not fail to comply with paragraph 12 of the Code of Conduct in respect of his conduct at the development control meeting.

The Conservative Group members of Blackpool Council met on 17 September 2009 and 21 September 2009. On 17 September, Councillor Peter Callow, the Conservative Group Leader, asked the councillors present if they knew about two political donations to Blackpool South Conservative Association. At the end of the meeting on 21 September, a document was passed around the group members to sign. It stated:

“We the undersigned wish it to be known that we did not know that the two donations given to Blackpool South Conservative Association were from Kensington Developments Ltd”

No council officers were present at either meeting and no present or future council business was discussed. The title ‘Councillor’ is not used in the document. Named individuals signed the document. Councillor Lee has printed his name and signed.

Group members who were not at the 21 September group meeting were given the opportunity to sign the document after the full council meeting on 23 September. The document was not discussed in the full council meeting on 23 September 2009.

The effect of paragraph 5 of the Code of Conduct is that a member must not bring his office or authority into disrepute while acting in his official capacity. At present the Code does not apply to members conduct in their private capacity.

The meetings on 17 and 21 September 2009 were political meetings. There is no evidence which suggested that the document was signed as part of council business.

Neither was the document considered as council business at the full council meeting on 23 September.

Those who signed the document were not acting, claiming to act or giving the impression that they were acting as representatives of their authority when they signed the document. Councillor Lee identified himself with his party and political ward. In common with the other members he wished to “clear his name” with the electorate in relation to the donations. He was not describing his involvement in any actions the political group had taken as councillors. The local conservative association is not the political group to which Councillor Lee belongs at the council.

The ethical standards officer considered that in signing the document Councillor Lee was not acting as a councillor and, therefore, was not covered by the Code. Therefore, whether or not he knew of the donations is not an issue about which she needs to form a view.

Relevant paragraphs of the Code of Conduct

The allegations in this case relate to paragraphs 5, 9, and 12 of the Code of Conduct.

Paragraph 5 states that “you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”.

Paragraph 9 states that “...where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest...”.

Paragraph 12 states that “...where you have a prejudicial interest in any business of your authority you must...withdraw from the room or chamber where a meeting considering the business is being held....”.

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