

Plymouth City Council

Case no.: SBE06680 and 06681
Member: Councillor Tudor Evans
Authority: Plymouth City Council
Date received: 13 Jul 2009
Date completed: 06 Oct 2009

Allegation:

The member failed to treat others with respect, brought their office or authority into disrepute and misused the authority's resources.

Standards Board outcome:

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

The complainant alleged that Councillor Tudor Evans, by referring to a member of the public in derogatory terms on a social networking website, bullied and intimidated him, failed to treat him with respect and brought his authority into disrepute. It was further alleged that by using his council-provided BlackBerry device to access the site, Councillor Evans had contravened the council's IT policies.

Councillor Evans uses Twitter, the social networking and micro-blogging site which enables users to post and read messages, limited to 140 characters, known as tweets. Tweets are displayed on the user's Twitter homepage. Councillor Evans' homepage includes the title 'Councillor Tudor' and the words 'Leader of the Labour Group of Plymouth City Councillors' appear in the 'Bio' section. The page contains no other reference to Plymouth City Council. While some of Councillor Evans' tweets are related to council business, many of them are comments on national party politics or relate to his social activities.

On 16 June 2009, Councillor Evans attended a local Co-operative Society meeting, in his role as a member of the society. The purpose of this meeting was to decide on a proposed merger with the national Co-operative Group. During the debate, another society member, who belongs to the British National Party (BNP), voiced his objections.

When other members reacted negatively to this, Councillor Evans posted a tweet using his council-provided BlackBerry which stated: "Nazi nobjockey trying to stop the merger. So he's got slow handclapped and ironic claps when he set down."

Councillor Evans' tweet was reported in the local press and the monitoring officer received complaints.

Councillor Evans stated that he used the word 'nobjockey' as it was alliterative with 'Nazi'. He understood it to be a generally derogatory term and not, as alleged, an offensive way of describing a homosexual man. He considered that the word 'Nazi' was acceptable political rhetoric when describing the BNP.

When he learned of the press report, Councillor Evans posted a further tweet stating: "Sorry. Thought the word meant something else. It does, but it wasn't seen that way. My comments about the BNP only meant to offend the BNP." Councillor Evans also apologised to the monitoring officer and gave an assurance that he would not use the word again.

Councillor Evans stated that he regretted his comment, but while he used the title of Councillor on his Twitter home page, he said he was not "always on duty" and felt that followers of his tweets could distinguish between what was council-related and what was not. He said that he made this particular comment as a private individual who did not like the BNP.

In reaching her finding, the ethical standards officer took into account a previous case concerning blogging and use of websites, in which an appeals tribunal for the Adjudication Panel for England decided that the question of whether a councillor was acting or claiming to act in his official capacity was fact-sensitive and would very much depend on the content of the comments posted.

The ethical standards officer noted that many of Councillor Evans' tweets did not relate in any way to council matters or to Councillor Evans' function as a councillor. The meeting at which Councillor Evans posted the tweet was not a council meeting and he was attending in his private capacity. The ethical standards officer therefore considered that Councillor Evans was acting in his private capacity when he posted the tweet and his actions were not subject to the Code of Conduct.

The ethical standards officer found no failure to comply with the Code of Conduct.

Relevant paragraphs of the Code of Conduct

The allegations in this case relate to paragraphs 3(1), 5 and 6(b) of the Code of Conduct.

Paragraph 3(1) states that a member must "treat others with respect".

Paragraph 5 states that "a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute".

The allegation in this case relates to Paragraph 6(b) of the Code of Conduct.

Paragraph 6(b) states that a member "must, when using or authorising the use by others of the resources of the authority – (i) act in accordance with the authority's requirements; and (ii) ensure that such resources are not used for political purposes (including party political purposes)".

Essex County Council

Case no. SBE06045
Member: Councillor Lord Hanningfield
Authority: Essex County Council
Date received: 18 Jun 2009
Date completed: 10 Nov 2009

Allegation:

The member failed to withdraw from a meeting in which he had a prejudicial interest and failed to complete his register of interests.

Standards Board outcome:

The ethical standards officer found that the member failed to comply with the Code of Conduct, but in the circumstances of the case, no further action needed to be taken.

The complainant alleged that Councillor Lord Hanningfield, of Essex County Council, participated in council decisions that resulted in the Academies Enterprise Trust (AET), of which Councillor Lord Hanningfield was both patron and director, taking control of five secondary schools in Essex. It was further alleged that Councillor Lord Hanningfield failed to declare his association with AET at five public meetings held to discuss the future of secondary education in Colchester. The complainant also alleged that Lord Hanningfield had failed to register his links with AET in the council's register of interests.

Councillor Lord Hanningfield is the leader of Essex County Council.

In 2007 a federation of three academy schools in Witham and Hockley was created, under a scheme in which high-performing secondary schools act as sponsors to low-performing partner schools, enabling both high-performing and low-performing schools to become academies. An organisation was set up called the Academies Enterprise Trust (AET). The AET was set up as the operating division of the Greensward College Trust, Greensward College being the former name of the sponsor academy in the federation, now known as Greensward Academy.

Following the decision of the Department for Children, Schools and Families (DCSF) that the Greensward College Trust would sponsor the new academies, Councillor Lord Hanningfield was approached with a proposal that he become patron of the soon-to-be-established AET and agreed, although he stated that he had never expected that he would participate actively.

Documentation from Companies House showed that on 19 March 2008, Councillor Lord Hanningfield signed paperwork in respect of the AET, registering him as a director, at the time at which the AET was incorporated as a private limited company on 19 June 2008. When the company was later registered as a charity in August 2008, Councillor Lord Hanningfield was listed as a trustee.

On 28 January 2009, Councillor Lord Hanningfield amended his register of interests to include his patronage of the AET, but did not include any reference to his role as a director or trustee.

Councillor Lord Hanningfield told Standards for England that he had not registered his patronage straight away because he had not at first been aware of the need to do so. When asked why he had not included his role as director of the AET, he told the investigator that he had not been aware of it until very recently. Although he had signed the form consenting to be a director of the Trust, he stated that he did very little of his own paperwork and relied on people providing him with the correct forms when his signature was required.

David Triggs, the AET's chief executive, stated that all communications with Councillor Lord Hanningfield had only been in relation to him becoming a patron, and that it was not clear how or why he had been registered as a director. He also confirmed that Councillor Lord Hanningfield had received no payment from the AET – he was not paid any sort of salary and had claimed no expenses. Neither had he attended any board meetings. None of the AET's documents refer to him in any other capacity than patron.

In August 2009, following the complaint about his conduct in relation to his role with the AET, Councillor Lord Hanningfield resigned as both patron and director.

In May 2008 and June 2009, Councillor Lord Hanningfield attended cabinet meetings relating to the proposals for the Witham and Hockley academy federation. He declared a personal interest as a patron of AET, and remained in the room while the matter was discussed, as someone with a personal interest is entitled to do under the members' Code of Conduct.

During 2008 and 2009, Councillor Lord Hanningfield had attended and chaired a number of public meetings about proposed changes to secondary education in Colchester. One of the proposals was to close a local arts college and re-establish it as an academy. However, witnesses told Standards for England that there had never been any intention for AET to be its sponsor.

In September 2008, the DCSF, in consultation with senior officers, decided to appoint AET as the sponsor for another proposed academy in Clacton-on-Sea. Councillor Lord Hanningfield played no part in this decision.

Councillor Lord Hanningfield signed an expression of interest document in the Clacton proposal in November 2008 to create the Clacton Coastal Academy. The ethical standards officer considered that this was not inappropriate, given his status as cabinet member for schools and early years.

The ethical standards officer took into account that the funding arrangements between the DCSF and academy sponsors do not allow the sponsor to profit financially from their management of schools, and this was also reflected in AET's memorandum of association, which confirms that the income and property of the Trust cannot be used to benefit any of its directors.

The ethical standards officer noted Councillor Lord Hanningfield's explanation that he had not initially appreciated the need to register his patronage and that he had not known that the forms he had signed for AET authorised his agreement to become a director and trustee. However, it was ultimately Councillor Lord Hanningfield's own responsibility to know the full range of interests he needed to register and to record them accordingly, and although the ethical standards officer accepted that Councillor Lord Hanningfield relied heavily on others in respect of the forms he had signed, she did not consider that this excused him from the need to register his status as a director and trustee of AET. Therefore she found that Councillor Lord Hanningfield's failure to register his patronage of AET on time, and his failure to register his directorship at all, were technical breaches of the Code of Conduct.

With regards to Councillor Lord Hanningfield's participation in meetings relating to proposals for academy schools while a patron and director of AET, the ethical standards officer found no evidence that he had acted improperly. He declared his personal interest as a patron, and so was clearly not attempting to conceal it. The public meetings that he had chaired were not meetings of the council as defined by the Code, which meant that he was not, in any case, required to declare interests at all in those instances.

Councillor Lord Hanningfield did not stand to gain financially from any decisions made at the cabinet meetings at which he was present, and as a councillor he was not responsible for appointing or recommending the sponsor for the proposed academy schools: this was in fact the role of the DCSF.

Consequently, the ethical standards officer found that the only breach of the Code that had occurred was the failure to register interests correctly. These breaches were not intentional and there was no evidence to suggest that Lord Hanningfield had ever attempted to conceal his interests deliberately. Consequently she found that no further action was necessary.

Relevant paragraphs of the Code of Conduct

The allegations in the case relate to paragraphs 6(a), 9, 12 and 13 of the Code of Conduct.

West Felton Parish Council

Case no. SBE05849
Member: Councillor Chris Lovell
Authority: West Felton Parish Council
Date received: 08 May 2009
Date completed: 08 Oct 2009

Allegation:

The member failed to treat others with respect, bullied other people, and brought his office or authority into disrepute.

Standards Board outcome:

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

The complainants alleged that Councillor Chris Lovell bullied the West Felton parish clerk through overbearing supervision and undermined him through constant criticism of his work, and that Councillor Lovell called the clerk a liar in a meeting in August 2008, during a debate about the clerk's news reports. It was further alleged that Councillor Lovell also bullied and intimidated the locum clerk by sending him numerous emails lacking in respect and courtesy, and that he continually challenged the locum clerk's advice to the council, insinuated that the locum clerk lied to the council on two occasions, and added words to an official council notice without authorisation.

The Code of Conduct does not prevent members from raising issues of legitimate concern, disagreeing with officers and other members or questioning their performance. However, members should not act in a way that is unfair, unreasonable or demeaning. In this case, the complainants cited the volume of contact was the main way in which Councillor Lovell's conduct became bullying.

The ethical standards officer found that the member did not demonstrate disrespectful or bullying conduct. There was substantial evidence that Councillor Lovell was engaged in the reasonable pursuit of council business, trying to fulfil his responsibilities as a councillor and attempting to ensure that the council operated properly and lawfully. The ethical standards officer considered that there was a legitimate reason for the contact between Councillor Lovell and the parish clerk, regardless of the volume of such contact, although the ethical standards officer appreciated that the clerk had limited hours in which to deal with Councillor Lovell's requests.

In relation to the August meeting, the ethical standards officer considered conflicting oral evidence, taking into account that people involved in a debate may take away different things from what may have actually been said. The ethical standards officer considered that the context of the meeting was of one in which various terms were used to describe the clerk's reports as inaccurate, but describing someone's work as inaccurate is not the same as calling them a liar.

The ethical standards officer looked at an email that the clerk sent to a number of councillors, asking for their views on the draft August minute, noting that those selected councillors were also presented with alternative drafts of this minute. The clerk referred to a sentence in one draft, containing the 'liar' remark, by saying that he had been advised to record what Councillor Lovell "actually said". In the alternate version, which he described as the 'actual' August minute, the 'liar' remark was omitted.

It is common practice for a clerk to send the council chair a draft copy of minutes, in order to identify and correct errors and so on. The ethical standards officer would usually take the minute as a persuasive account of a meeting. However, in this case there were alternate versions circulated to some members prior to finalisation. The ethical standards officer saw no evidence that any of the members came back to the clerk to say which version was more accurate. The markedly different versions of the minute meant that the ethical standards officer could not rely on it as conclusive proof of Councillor Lovell's words.

The ethical standards officer, having considered the amount of uncertainty about the evidence, including the conflicting witness accounts, gave the subject member the benefit of the doubt and did not find, on the balance of probabilities, that Councillor Lovell made the alleged remark at the meeting.

In relation to the complaint about Councillor Lovell's conduct towards the locum clerk, the ethical standards officer did not consider the incidents cited to be offensive, intimidating, malicious, insulting or humiliating. Neither were they based on an abuse or misuse of Councillor Lovell's power. Councillor Lovell had questioned the locum clerk's advice and taken independent advice, as any councillor might properly do. The ethical standards officer did not, therefore, consider Councillor Lovell's actions to be bullying or disreputable, although she accepted that the situation may have been uncomfortable or embarrassing for the locum clerk.

Finally, the ethical standards officer concluded that the display of official council notices was a long-standing and well understood arrangement, whereby Councillor Lovell would display the notices on the clerk's behalf in order to save the clerk time and the council money. There was no evidence that Councillor Lovell was not acting in good faith when he displayed the council notice, recording the time and date at which he put the notice up.

Relevant paragraphs of the Code of Conduct

The allegations in this case relate to paragraphs 3(1), 3(2) and 5 of the Code of Conduct.

Paragraph 3(1) states that a member must "treat others with respect".

Paragraph 3(2) states that a member must not "bully any person".

Paragraph 5 states that "a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute".

Barlborough Parish Council

Case no.	SBE05102
Member:	Councillor Eion Watts
Authority:	Barlborough Parish Council
Date received:	24 Mar 2009
Date completed:	21 Aug 2009

Allegation:

The member failed to treat others with respect and bullied another person.

Standards Board outcome:

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

Councillor Eion Watts was the chair of Barlborough Parish Council from May 2007 to May 2008, the period covered by the allegations.

The complainant alleged that Councillor Watts.

- Ridiculed, bullied, shouted down and ignored an employee of the council.
- Accused her of political bias and implied that she was a liar in public and private meetings.
- Illegally convened a parish council meeting at a time when she could not attend and at which the council decided to make her role redundant.
- Intimidated and bullied her by threatening that she would lose her job when she refused to act in a way that she believed to be illegal.
- Bullied her by dealing with the grievance she brought against the council and by ruling in the council's favour, and also by dealing with subsequent appeal and declaring it to be out of time.
- Used the grievance procedure in a second grievance case to bully her.
- Allowed the public in council meetings to shout at her, call her names and belittle her. Influenced the next chair, Councillor Oldknow, to allow the complainant's grievance, a disciplinary case against and her possible redundancy to be discussed in public.

The complainant kept a log of incidents over the period in question and used this to substantiate her allegations. The ethical standards officer found that the complainant did not document any incidents of Councillor Watts shouting at her in her log and she did not go on to allege this in interview. No other witnesses recalled such behaviour from Councillor Watts.

No substantive incidents were logged in which Councillor Watts ridiculed the complainant or suggested that she was a liar. The ethical standards officer considered that when Councillor Watts questioned the complainant's political neutrality, he was raising legitimate concerns, as chair, about the complainant's role and that his concerns were properly expressed.

Two of the complainant's allegations that Councillor Watts ignored her involved him not greeting her. The ethical standards officer considered that, even if these allegations were proven true, failure to greet the complainant would not amount to disrespect. In other cases, the complainant alleged that Councillor Watts ignored her advice as a council officer. This Councillor Watts was entitled to do, as the complainant's role was to advise and the chair's or the council's role was to take or reject such advice and accept responsibility for any actions taken.

Similarly, in the matter of the council meeting that the complainant alleges Councillor Watts convened illegally, the ethical standards officer noted that Councillor Watts sought an opinion on the matter from a legal officer of the district council who advised him that he could convene a council meeting in the complainant's extended absence, and the decision to go ahead with the meeting was the responsibility of him and the council as a whole. The decision to reorganise the complainant's role was also that of the council, and not Councillor Watts alone.

Furthermore, contrary to the complainant's allegation, the ethical standards officer found that she had not been unable to attend the meeting, but had chosen not to. This was the incident which led to a disciplinary case against her.

In the matter of the complainant's first grievance, this was made against the council and not Councillor Watts. The ethical standards officer found that the procedure Councillor Watts put in place, whereby he and his vice chair heard the grievance and the council heard the appeal against it, was one which he was justified in adopting and which the complainant accepted in writing. The complainant's appeal was genuinely out of time, having been made more than the stipulated number of days after she received the decision from the hearing, which was given to her in writing and delivered by hand in front of a witness.

Councillor Watts took no part in the complainant's second grievance, which was directly against him.

The complainant was able to cite very few incidents in which the public had shouted at her, ridiculed her or called her names at council meetings chaired by Councillor Watts. The ethical standards officer found no evidence that Councillor Watts encouraged such behaviour or allowed it to continue without intervening.


Councillor Oldknow's conduct as chair was not considered by the ethical standards officer to be behaviour by Councillor Watts which could be held to be disrespectful or bullying.

Overall, there were no incidents of Councillor Watts being abusive to the complainant, which were satisfactorily

evidenced by her or any witnesses interviewed. The incidents for which evidence was cited did not amount, in the opinion of the ethical standards officer, either individually or collectively, to disrespect or bullying.

Consequently, the ethical standards officer found that the member did not breach the Code of Conduct.

Relevant paragraphs of the Code of Conduct

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