

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Standards Committee

17 June 2009

AUTHOR/S: Chief Executive / Democratic Services Officer

LOCAL HEARINGS AND REFERENCES MADE TO THE STANDARDS BOARD FOR ENGLAND

Purpose

1. To update members on local hearings and a case which was referred to the Standards Board for England (SBE) for investigation and has now been completed.
2. On 10 December 2008 the Standards Committee resolved that cases in which no breach of the Code of Conduct has been found or no further action is to be taken should be anonymised for the purposes of reporting back to the Committee and that only in cases where a breach has been found should the relevant member be identified to the Committee. Although a more detailed summary has been produced by the SBE for publication on their website, this report has been written in agreement with the Standards Committee's resolution.

Local Hearings

SBE 21842-08 (15 April 2009)

3. Mr Steve Hampson, Executive Director and Monitoring Officer at South Cambridgeshire District Council alleged that on 31 January 2008 Councillor Deborah Roberts, a member of South Cambridgeshire District Council, made an offensive comment regarding travellers during a conversation with Mr Dale Robinson, the council's Corporate Manager (Health and Environmental Services) when she criticised council officers for arranging works to repair a sewer on a travellers' site.
4. This allegation was made under the 2003 regulations and was referred to the Standards Board for England. The Ethical Standards Officer (ESO) considered that Councillor Roberts failed to show respect to Mr Robinson and the travellers in question and therefore failed to comply with paragraph 3 (1) of the Code of Conduct. The ESO considered that Councillor Roberts' comment could reasonably be regarded as bringing her office as a councillor into disrepute and she therefore failed to comply with paragraph 5 of the Code of Conduct; however, the ESO did not consider that Councillor Roberts' comment could be regarded as bringing the council into disrepute. The ESO also considered whether Councillor Roberts' conduct in the matter could be regarded as a breach of the authority's race equality scheme, contrary to paragraph 3 (2) (a) of the council's Code of Conduct; the ESO did not consider that Councillor Roberts failed to comply with this part of the Code of Conduct.
5. The Panel found, that on the balance of probabilities, that Councillor Mrs Roberts did say to Dale Robinson, on the 31st January 2008, "Let them stew in their own shit". They reasoned that the weight of the evidence would suggest that, on the balance of probabilities, Councillor Mrs Roberts did say it. The Panel did not find that the statement made by Councillor Mrs Roberts was disrespectful to Mr Robinson, considering the robust nature of their relationship. They reasoned that the comment

was aimed at Travellers and not at Mr Robinson, and that Councillor Mrs Roberts was merely querying his role in apparently treating Travellers more favourably than the settled community, notwithstanding that her views may well have been incorrect.

6. The Panel found that the statement made by Councillor Mrs Roberts was disrespectful to Travellers. They reasoned that there was no need for the identifiable persons concerned to be present to hear and it was a comment aimed directly at the Travellers on Smithy Fen.
7. The Panel found that Councillor Mrs Roberts had breached the Code of Conduct in respect of Paragraph 5: "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office ...into disrepute". They reasoned that Councillor Mrs Roberts was acting in her official capacity when she spoke to Mr Robinson and the Panel adopted the reasoning of the ESO that members of the public would expect elected councillors to raise questions in a respectful way which did not involve offensive language.
8. Having taken account of these findings, and of the findings in a previous investigation which concerned offensive remarks made by Councillor Mrs Roberts about Travellers, and for which no action was taken, the Hearing Panel decided to censure Councillor Mrs Roberts. The Panel considered that, in mitigation, Councillor Mrs Roberts had a long-standing record of public service and had been re-elected since the findings of the previous investigation. She had not been found in breach of the Code of Conduct since 31 January 2008.

CORCOM 3312 (7 May 2009)

9. Mr D Welch, a resident of Over, alleged that Cllr Mrs Corney, Chairman of the Planning Committee, failed to leave the Chairman's Delegation Meeting when she had a prejudicial interest in an application. The Local Assessment Panel referred the matter to the Monitoring Officer for investigation. The Investigating Officer found that the Code of Conduct had been breached and a public hearing was held on 7 May 2009.
10. The subject member made no objections to the findings of fact in the Investigating Officer's report. She admitted that she had breached the Code of Conduct by mistake, having failed to understand the requirements of the Code of Conduct at an informal meeting such as the Chairman's Delegation Meeting. She submitted that members participating in the Chairman's Delegation Meeting were vulnerable to allegations of breaches as no legal officer attended these meetings to give advice.
11. Councillor Mrs Corney gave evidence that neither she nor the other two members for Willingham and Over Ward had been contacted prior to the Chairman's Delegation Meeting by the complainant nor by any residents objecting to the planning application. She stated that the telephone conversation she had with Mr Welch, referred to in Mr Welch's letter of complaint, had occurred after the meeting rather than before the meeting, as alleged, and she had described the outcome of the Chairman's Delegation Meeting to him.
12. The Panel agreed with the findings of fact made by the Investigating Officer in her evidence, which had not been disputed by Councillor Mrs Corney. Additionally, the Panel found that, in the circumstances, it was likely that the phone conversation between Councillor Corney and the complainant, Mr Welch, occurred after the Chairman's Delegation Meeting.

13. Having made the above findings of fact, the Panel found that Councillor Corney did breach paragraph 12(1)(a) of the Code of Conduct of South Cambridgeshire District Council. The panel carefully considered the representations of Mrs Lloyd and Councillor Mrs Corney as to what action to take with regard to the breach found. The Panel noted that Councillor Mrs Corney admitted the breach immediately, for which she was given due credit.
14. The Panel had no reason to challenge the veracity of what Councillor Mrs Corney has stated at the hearing: that she did not discuss the application either before or during the meeting with her Vice-Chairman, Councillor Turner. The Panel had no evidence to show that the outcome of the planning application was in any way influenced by Councillor Mrs Corney in this case.
15. The Panel felt that the breach found, that Councillor Mrs Corney did not leave the room when she had a prejudicial interest, was a mistake which arose from her failure to understand the requirements of the Code of Conduct. The meeting was much more informal than a full Planning Committee and did not benefit from the provision of legal advice on what to do concerning declarations of interest and the need to leave the room. The Panel therefore found that Councillor Mrs Corney should attend refresher training on the Code of Conduct with one of the Council's Deputy Monitoring Officers within 28 days of today. The Panel did not consider that any other sanctions are appropriate in this case.
16. To the Panel's knowledge, Councillor Mrs Corney has not breached the Code of Conduct before, and the Panel understand that Councillor Mrs Corney has proven herself to be a capable chairman of the Planning Committee in all other respects.
17. The Panel made the following recommendations to the authority: that the procedures and operating principles of the Chairman's Delegation Meeting be reviewed within three months of the hearing, this review to include the consideration of provision of officer support from either Legal or Democratic Services, or both. This should be achieved by the establishment by the Monitoring Officer of an officer working group, reporting to a task and finish group of the Scrutiny and Overview Committee and to the Standards Committee at its 16 September 2009 meeting.

Standards Board for England Investigation

SBE01720 – IR0R4

18. The Assessment Panel referred this case to the Standards Board on 13 August 2008, and it was accepted for an ethical standards officer investigation a week later. The ethical standards officer issued her final report in February 2009, which concluded that that the councillor did not breach the code of conduct in respect of any of the four allegations made. The full report was reproduced confidentially to the Committee at the end of the 11 March 2009 agenda "to assist them in the discharge of their functions". These functions in question were "monitoring, advising, training or arranging to train members on matters relating to the authority's code of conduct".
19. At the 11 March 2009 meeting the Standards Committee expressed concern that officers who had given evidence in the case were unable to be given a copy of the decision or be told the reasoning behind the "no breach" decision and asked the Deputy Monitoring Officer to contact the SBE to see if it were possible to issue the report to those officers. The SBE responded that the full decision must be kept confidential but they have at last issued a summary of the decision which will be published on the SBE website and which has been forwarded to the officers involved

in giving evidence. The Deputy Monitoring Officer has offered to answer officers' questions arising from the report, within the boundaries of the restrictions imposed upon her.

20. The summary is reproduced in this report, anonymised in accordance with the Standards Committee's resolution of 10 December 2008. **Please note the summary produced here and the finding of the ethical standards officer may be disclosed, but disclosure of information from the full report, as seen by members of the Standards Committee on 11 March 2009, may be an offence under s63 of the Local Government Act 2000.**
21. It was alleged that a district councillor publicly criticised a number of council officers during a South Cambridgeshire District Council meeting, thereby failing to treat them with respect. The ethical standards officer also considered whether this conduct could be regarded as bullying.
22. It was further alleged that after the meeting, whilst explaining these actions, the subject member falsely attributed responsibility for these comments at the meeting to the council's Chief Executive, thereby failing to treat the Chief Executive with respect and bringing the office of councillor or the authority into disrepute.
23. The agenda for the meeting included an update report on the council's financial position, which the subject member was to present. The subject member received the report only shortly before the meeting started and the report showed a much larger projected under-spend than that of which the subject member had previously been advised. The subject member expressed dissatisfaction to the Chief Executive and requested that the council's cost centre managers attend the cabinet meeting to hear what the subject member had to say on the matter. The Chief Executive responded positively when the subject member asked if the Chief Executive would like the subject member to "*come down strong on this*"; however, the Chief Executive stated when interviewed that he did not expect the subject member to address officers directly at the meeting.
24. When presenting the report, the subject member addressed critical comments regarding the projected under-spend directly towards the officers gathered to hear the presentation. Other members present described the subject member's comments as lambasting the officers and as a 'rant' or 'tirade'. Shortly after the meeting the subject member asked the Chief Executive to forward an e-mail to the officers, apologising for any distress caused by the comments.
25. The subject member accepted that these comments to the officers were strongly worded and, in retrospect, given more time to prepare, the subject member would have phrased things differently; however, the subject member did not feel that these comments were disrespectful to the officers.
26. Some of the officers felt the manner in which the subject member addressed them was inappropriate and were upset by the comments; however, others considered that these comments were reasonable and justified, and were not unduly offended or upset.
27. The ethical standards officer concluded that, although the subject member's actions were ill-judged, there was no evidence that any inappropriate words or offensive or insulting language were used when the subject member addressed the officers. The comments were not directed towards any individual officer and the subject member did not name any of them; it was a one-off incident which was not repeated and the

subject member apologised very quickly after the meeting for any offence caused. Therefore, the ethical standards officer took the view that the subject member did not breach the Code of Conduct by failing to treat others with respect, and did not regard this conduct as bullying.

28. Immediately after the meeting the subject member told other councillors that the comments had been made at the suggestion of the Chief Executive. When interviewed, the subject member said this comment was based on the understanding that the Chief Executive had encouraged the tone taken, by his positive response when asked if the subject member should be firm on the matter. The subject member said that there was no intention to mislead people about the Chief Executive's involvement.
29. The Chief Executive became concerned that, in the subject member's account of their discussion before the meeting, the subject member was attributing to him responsibility for the comments made at the meeting. He challenged the subject member about this and called for a public apology. The subject member subsequently apologised, copying the apology to all members of the authority.
30. The ethical standards officer did not consider that the subject member failed to treat the Chief Executive with respect.
31. The ethical standards officer concluded that there was insufficient evidence that the subject member deliberately sought to mislead people regarding the Chief Executive's involvement. Taking this into account, and the subject member's apologies to the officers and the Chief Executive, the ethical standards officer did not consider that the subject member's conduct could reasonably be regarded as bringing the office of councillor or the authority into disrepute.

Recommendations

32. To note.

Background Papers: the following background papers were used in the preparation of this report:

Decision notices from public hearings SBE 21842-08 and CORCOM 3312
Standards Board for England case summary SBE01730-IR0R4

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