

BABERGH DISTRICT COUNCIL

FROM: The Monitoring Officer

REPORT NUMBER **F60**

TO: STANDARDS COMMITTEE

DATE OF MEETING 28 July 2006

MEMBERS' CODE OF CONDUCT CASE REPORTS

1. **SUMMARY**

This report updates members on recent case reports arising from investigations of alleged breaches of the Members' Code of Conduct. It highlights any relevant court cases, findings of the Adjudication Panel of the Standards Board for England along with significant local determinations.

2. **RECOMMENDATIONS**

2.1 That the content of this report be noted.

The Committee is able to resolve this matter.

3. **FINANCIAL IMPLICATIONS**

None.

4. **KEY INFORMATION**

4.1 **SELECTED CASE TRIBUNAL DECISIONS**

4.1.1 **CLLR R (APE0335) – Commission of offence prosecuted by the council**

Town Councillor R claimed welfare benefits from a district council. She failed to notify the council of a change in her circumstances and pleaded guilty to the offence. She claimed that it was a mistake, an oversight and that at no time did she intentionally try to claim benefits to which she was not entitled. Upon reviewing the evidence, the tribunal held that this was a breach of paragraph 4 of the Code of Conduct in that, her conduct could reasonably be regarded as bringing her office or the council into disrepute. However, the tribunal felt that CLLR R was under significant personal pressure, she was sincerely regretful and took full responsibility, and as such, the tribunal were under the firm belief that this would not happen again and therefore, no sanction were necessary.

4.1.2 **CLLR O-D (APE0337) – Commission of offences relating to false accounting**

City Councillor O-D was convicted in the crown court of four charges of false accounting in respect of her failure to declare her members allowance, a total of £6,750 for the year 2003/4 when making her benefits application to the same city council. She claimed that she had not declared her allowance because she did not regard the money to be for living expenses. She understood that it was to be used for her duties as councillor and the maintenance of her office. CLLR O-D did not appear at the hearing and the case was heard in her absence. The tribunal held that whilst her benefit claims were a personal matter, there was a clear link between her failure to declare the allowance received, by serving as a member and in her official capacity. The failure to declare an allowance in an official capacity would be known to anyone learning of her prosecution and conviction. Therefore, she was in breach of paragraph 4 of the code of conduct. CLLR O-D was disqualified for a period of 15 months from being or becoming a member of the relevant authority or of any other relevant authority within the meaning of the Local Government Act 2000.

4.1.3 **CLLR M (APE0338) – Failing to register interests**

Borough Councillor M had a number of allegations recorded against him. The first related to a failure to register his interest within 28 days in respect of his newly formed company. There were three other allegations of failing to declare personal and prejudicial interests at meetings. Taking the circumstances in consideration and noting in particular CLLR M's acknowledgment of fault, the fact that he had learnt from his experience and was willing to learn more through training, the tribunal concluded that this was an appropriate case in which to reprimand CLLR M in respect of each breach.

4.1.4 **CLLR C (APE0276) – Training required for members**

Town Councillor C had a number of allegations recorded against him, namely, failing to treat his clerk with respect under paragraph 2(a) of the Code of Conduct, threatening to take legal action against the clerk in his professional capacity, failing to register a financial and other interest and failing to declare a personal and prejudicial interest at a meeting. The case tribunal noted that the majority of breaches occurred before CLLR C received any formal training of the Code and regarded this as a significant mitigating factor in respect of the breaches. CLLR C had already resigned from his office, and stated that he did not intend to seek office in any relevant authority. Since CLLR C was no longer a member, suspension was not applicable in the circumstances. The tribunal considered that despite the number of breaches, the extent of mitigation militated against disqualification. The tribunal reprimanded CLLR C and instructed the relevant authority to provide adequate training for all members.

4.1.5 **CLLR J (APE0322) – General conduct matter**

Borough Councillor J was found to have failed to treat officers with respect by a pattern of behaviour including a succession of e-mails that collectively demonstrated an attitude of disparagement and contempt of officers. He had further brought his office into disrepute. The tribunal took account of the fact that CLLR J's misconduct commenced shortly after he had been elected and continued for approximately two years. This was despite the fact that he attended a range of training courses and received extensive advice and written warnings from senior officers. Furthermore, CLLR J was in no way apologetic and there appeared little prospect of him adopting a different approach in future. The tribunal disqualified CLLR J from being a member of his office or any other relevant local authority for a period of one year.

4.1.6 **CLLR S (APE0342) – Conduct at meetings**

District Councillor S was accused of calling the Chief Executive and two other named senior council officers dishonest, and alleging that they had withheld information during a meeting of full council concerning the housing stock transfer in which the council was engaged. CLLR S declined to withdraw his comments and stated that he looked forward to the Chief Executive's further action on the matter. The Tribunal ruled that CLLR S had a right to express his concerns about the procedure, but he was not however, free to cite named officers in open council meetings and imply by inference that they had acted dishonestly or unprofessionally. The Tribunal ordered a six months suspension.

4.1.7 **CLLR L (APE0343) – Conviction for drink driving**

Following District Councillor L's husband's death in 2003, CLLR L had been experiencing personal problems and was severely depressed. As a result of her depression, she failed to attend regular committee meetings at the district council. One night in particular, she drank excessively and drove to her late husband's grave. She was stopped by a police officer and admitted that she had been drink driving. She was subsequently found guilty at the local Magistrates Court. At the adjudication appeal hearing, CLLR L was very remorseful and accepted that her actions let her and her office down. The tribunal considered the offence of drink driving to be sufficiently serious to merit sanction. However, it took into account CLLR L's various mitigations. They also welcomed the news that CLLR L had completed an alcohol awareness course, she had also resigned from the licensing committee. It was decided to reprimand CLLR L and take no further action against her.

4.1.8 **CLLR C (APE0299) – General conduct matter**

County Councillor C had two allegations recorded against him. Firstly, he actively sought to remove the Chief Executive from office by a pattern of behaviour intended to undermine, demean and demoralise him, i.e. CLLR C made a public statement to a reporter in which he stated that, the Chief Executive should be removed and replaced. Secondly, he made a public comment about a conviction of a former leader of the council on a charge of corruption in public office where coincidentally, the Chief Executive was the main prosecution witness. The tribunal recognised that repeated breaches and misuse of power were grave matters. Consequently it disqualified CLLR C for a period of 15 months from being or becoming a member of the relevant authority or any other relevant authority within the meaning of the Local Government Act 2000.

4.1.9 **CLLR A (APE0344) – Various trading standards convictions**

Borough Councillor A was convicted in February 2005 for four offences of selling food after its "use by date", and one offence of selling unmarked and or unlabelled food at his grocery shop; and further received a caution for breaches of the Highway Act 1980. CLLR A made a statement in his letter to the Standards Board stating "*whilst I very much regret these offences, I do not feel they impact on my role as a local councillor*". He further stated that the offences were caused by negligence rather than flouting of the law and also misplaced reliance upon others, he further stated that there was no element of dishonesty. It was concluded that CLLR A's honesty and integrity were not in question, rather whether or not the commission of the offences brought his office into disrepute. The test for deciding this breach is an objective one of whether a reasonable person aware of all the material facts and ignoring all immaterial factors would regard there to have been a breach of the code. The tribunal concluded that the material factors were:-

- the offences were of a relatively minor nature
- the offences did not require proof of dishonesty
- the offences were caused by third parties
- CLLR A admitted and accepted responsibility at first instance.
- CLLR A had taken all reasonable actions to secure future compliance.

The tribunal concluded that a reasonable person aware of all the material factors and ignoring all the immaterial factors would not consider the actions of CLLR A had brought his office or the council into disrepute, therefore, no action was taken.

4.1.10 CLLR K (APE 0346) – Second offence of drink driving

Borough Councillor K was involved in a road traffic accident and was convicted for driving with excess alcohol and therefore bringing her office and the borough council into disrepute contrary to paragraph 4 of the Code. She had previous conviction for drink driving. The tribunal disqualified CLLR K for a period of one year.

4.1.11 CLLR W (APE 0323) –Unpleasant behaviour towards others

District Councillor W lodged a planning application which was refused and then complained in writing to the Chief Executive about the planning procedure adopted by the council. He proceeded to write a number of aggressive, intimidating and threatening letters to other officers within the council. CLLR W was reprimanded and warned of his future behaviour.

4.1.12 CLLR D (APE 0348) –Derogatory e-mails to members of the council

District Councillor D was provided with a laptop computer when he took office. CLLR D soon discovered that there was a problem with his e-mail system. He proceeded to send derogatory e-mails to officers and members of the council which were copied to third parties. He was also unpleasant towards IT staff and was sarcastic about the death of a junior officer. After receiving repeated advice and warnings regarding his behaviour, he continued to behave in an inappropriate manner. The tribunal disqualified him for a period of one year from office.

4.2 APPEALS AGAINST STANDARDS COMMITTEE DECISIONS

4.2.1 CLLR B (APE 0350) – Appeals Tribunal refuses to lift sanction

CLLR B applied to the President of the Standards Board for leave to appeal the Standards Committee decision to suspend him for 6 weeks. He had been found in breach of the Code for failure to declare a prejudicial interest at a Parish Council meeting and proceeding to chair the meeting. Leave to appeal against the findings of the Standards Committee was refused but leave to appeal against the sanction was granted.

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