



PAPER H173

Standards Board for England: Press Office

17 June 2008 - Councillor disqualified for one year

A former member of Wycombe District Council has been disqualified from office for a year for his conduct in relation to two planning applications.

The Adjudication Panel – a judicial tribunal that is independent of the Standards Board – agreed with the ethical standards officer's view that Councillor D had breached the Code of Conduct, and disqualified Councillor D as a result at a hearing on Thursday 12 June.

Having investigated the allegations, the Standards Board for England's ethical standards officer produced a report for the Adjudication Panel to consider when reaching its finding. The ethical standards officer's view was that Councillor D had used his position improperly, sought to compromise council officers' impartiality, sought to influence decisions in which he had a prejudicial interest and brought his office into disrepute.

Sir Anthony Holland, Chair of the Standards Board for England, said; *"By attempting to influence planning applications to the advantage of his associates, Councillor D failed to act with the honesty and integrity that the general public have every right to expect from their local representatives. This was a serious breach of the trust the electorate had placed in him."*

Would you have behaved differently?

Babergh District Council presents:

"Councillor Conduct – Complaints and How to Avoid Them"

Training for parish & town councillors

3rd February 2009 at The Stoke by Nayland Hotel
10th February 2009 at The Holiday Inn, London Road, Ipswich

Registration - 6pm for 6.15pm start. Free sandwiches and refreshments will be available!

If you would like to attend one of the sessions, please complete the attached slip and return to Shirley Langdon no later than 23 January 2009

Spaces are limited and we would suggest a maximum of 3 delegates per Town or Parish Council.

Draft

Councillor Conduct – Complaints & How To Avoid Them

- | | |
|---------------|----------------------------------------------------------------|
| 18.00 – 18.15 | Arrival & registration |
| 18.15 – 18.20 | Chairman's welcome |
| 18.20 – 18.40 | Quiz |
| 18.40 - 19.00 | Presentation
<i>Declaring Interests – Getting it Right</i> |
| 19.00 - 20.00 | Workshops |
| 20.00 - 20.15 | Presentation
<i>The Complaints Procedure – How it works</i> |
| 20.20 | End |

COUNCILLOR CONDUCT – AVOIDING COMPLAINTS

February 2009

QUIZ QUESTIONS

1. How many parish councils are there within the district of Babergh?

(a) 76 (b) 66 (c) 65

2. A councillor must declare the receipt of any gift or hospitality received in connection with their official duties which has an estimated value exceeding what sum?

£.....

3. A Register of Interests form must be completed within 28 days of what?

(i)
(ii)
(iii)

4. A complaint that a councillor has not complied with the Code of Conduct is made to whom?

.....

5. True or false; A councillor cannot have a prejudicial interest in business concerning the council's functions:

(a) in setting a precept
(b) giving ceremonial honours

6. Which of the following are obligations under the Code?

(a) treat others with respect
(b) duty to report breaches of the Code
(c) not to compromise the impartiality of an employee
(d) comply with equality enactments
(e) act with honesty and integrity

- (f) not to bully others
 - (g) not to disclose confidential information
 - (h) use resources for proper purposes only
7. The Standards Committee may grant a dispensation to allow a councillor with a prejudicial interest to take part in a meeting where:
- (a) the committee considers it would be in the public interest?
 - (b) over 25% of the council has a prejudicial interest?
 - (c) over 50% of those councillors entitled to participate have a prejudicial interest?
 - (d) the item under consideration does not relate to financial interests or a regulatory matter?
8. The maximum sanction for a breach of the Code of Conduct is disqualification for:
- (a) 1 year? (b) 3 years? (c) 5 years?
9. The Code of Conduct was adopted in:
- (a) 2001? (b) 2005? (c) 2007?
10. What are the Nolan Principles?
- (a) A set of general standards of conduct underpinning public life
 - (b) A philosophy which states that rational beings are responsible for their behaviour and may therefore be held accountable for what they do
 - (c) An Irish all-girl pop group
11. The Standards Board for England:
- (a) receives recommendations from local authorities' standards committees before imposing appropriate penalties on councillors who misbehave?
 - (b) is the new name for the Local Government Ombudsman?
 - (c) provides independent oversight of a locally-based system of ethical complaints

WORKSHOP QUESTIONS

3 & 10 FEBRUARY 2009

1. An anonymous complaint has been made to the Monitoring Officer against a councillor. The complaint alleges that the councillor was overheard making inappropriate remarks to the clerk who appeared embarrassed.

Has there been a breach of the Code?

2. A pool attendant at the local leisure centre has written a letter of complaint to the council about a councillor. He says that last Saturday when he was at the local supermarket, a woman took the parking space that he had been waiting for. She then got out of her car and shouted at him.

The pool attendant claims the woman swore at him and bent his car aerial. Another person who witnessed the incident told him that she was a local councillor.

Has there been a breach of the Code?

3. The council has sold several plots of land, all of which were subject to restrictive covenants preventing building on the plots. A councillor bought one of the plots. He obtained planning permission, and started to build a house on his plot in contravention of the covenant.

A local resident has complained, alleging that the councillor has received favourable treatment from the council and requesting that the council enforce the covenant.

Has there been a breach of the Code?

4. The council is involved in negotiations for the sale of council land to a private contractor for a regeneration scheme involving the building of a leisure, residential and retail development. The contractor's managing director has invited members of the council (some of whom are also members of the planning committee) and officers to a presentation of his company's proposals in a corporate box at a championship football ground. There will be a champagne reception followed by a championship football match.

Should they accept the offer?

5. The parish clerk and chairman of the council are offered complimentary tickets to a ballet performance at a local theatre. The theatre in question owes a debt to the council of £100.

Should the chairman accept? If he accepts, what must he then do?

6. The planning committee has been consulted on an application from a company to build a small office block. The development would be in a conservation area.

One of the councillors on the planning committee is the godfather of a senior manager in the development company.

What kind of interest, if any, does the councillor have?

7. A councillor is an active member of a local wildlife conservation group and a member of the council's planning committee. The council is supportive of development of a site as a community building. Great crested newts have been found on the land.

What kind of interest, if any, does the councillor have in the planning application?

8. During a dinner party conversation, you are told that another councillor is using his position to elicit free drinks from a number of local pubs. The councillor concerned does not sit on the committee that considers licensing applications.

Has there been a breach of the Code?

9. You are at a party and you see your chairman arriving arm in arm with the clerk.

What action, if any, should you take?

10. Councillor White, is an accountant in a local practice. One of the larger building firms in the area is one of her clients. The firm is tendering for a contract to build new premises for the council.

What actions (if any) should she take when the item comes to be considered at committee?

11. Councillor Green is a parish and district councillor. Councillor Green accompanied some constituents to the housing benefit office to help them with their claim. The Councillor was loud, swearing at staff, 'You lazy *****', demanded immediate attention, interrupted discussion in the office and made disparaging comments about the housing benefits service.

Has there been a breach of the Code?

12. Councillor Black regularly parks his car illegally and has received parking fines amounting to £400 over the past two years. In order to try to avoid paying the most recent fine, Councillor Black used official council paper and his title when writing to the parking enforcement authority to appeal against the fine. He argued, falsely, that he had a parking permit for that particular area but was waiting for its renewal.

When accused of using his position to improperly secure an advantage for himself, Councillor Black argued that he was merely letting people know who he was and that as an elected representative he was free to use his title 'as everybody else does'.

Was there a breach of the Code?

13. Councillor Brown sat on a council disciplinary panel. The case involved an employee who had received a final written warning for disciplinary offences, but had repeated the behaviour that gave rise to the final warning. The panel convened to determine whether the employee should be dismissed.

The employee was Councillor Brown's nephew. Councillor Lampard did not advise the other panel members of this, and helped persuade the panel not to dismiss the employee.

Has there been a breach of the Code?

14. Councillor Pink claimed on her blog that a number of identifiable fellow councillors and the clerk had abused their positions and mismanaged council finances.

The councillor defended her actions by arguing that she was acting in the public interest and for the benefit of open government. She also argued that the named members and clerk had forfeited their right to respect by their actions. She further claimed that under the European Convention on Human Rights she was merely exercising her right to freedom of speech and in any case, was not acting in her official capacity when she made the comments.

Has there been a breach of the Code?

15. The clerk is preparing the tender specification for a contractor to lay a new cricket pitch within the village. A well known company that specialises in artificial turf and sports pitches has contacted him.

The company invites the clerk to view some of their sports pitches in situ. The invitation is to Newmarket Racecourse. The company suggests the clerk should visit on race day, when he can make use of their hospitality tent and, of course, bring his spouse.

What should the clerk do?

16. During the regular chairman's briefing before papers are issued for the next council agenda, the chairman asks the clerk if he could amend a recommendation in a report.

He explains this is because he has had years of experience in this field and does not feel the recommendation would be workable. He states that he tried to come in and see her the week before but, because she was on holiday, he took the file from her desk and read it. The contents confirmed his opinion. He also feels that her recommendation would not be acceptable to his fellow councillors.

Has there been a breach of the Code?

17. During a parish council meeting, the clerk expressed a view on how a particular item should be handled. A councillor stated as a loud aside to the other members: 'Don't listen to her, you can't rely on her advice'. Previously, the councillor had received advice from the clerk against taking a course of action, which she believed was not good practice and should not be pursued. The councillor was unhappy with the advice.

The clerk complained about the aside to the chairman and vice-chairman of the council both of whom had been present at the meeting. They said that they didn't hear the statement and, anyway, officers were there to serve the members and that sort of thing was normal.

Was there a breach of the Code?

18. Your chairman sends an email to all members of the town council to advise that he has instructed a builder to undertake some urgent repairs to the town hall.

The builder is the husband of a friend of his wife.

Has there been a breach of the Code?

19. There is a desperate shortage of affordable housing within your parish. A planning application has been submitted which includes a number of affordable homes. Your daughter is on the district council's housing waiting list and stands a chance of securing one of the properties.

You attend a public event hosted by the developer to promote the scheme and take the opportunity to publicly express your strong support.

When the application is discussed by the planning committee you speak in support of the development and the decision is taken to recommend approval to the district council.

Has there been a breach of the Code?

20. The parish council considers a confidential report. You believe that the report raises issues of public interest and you provide a copy of the report to the local newspaper which publishes details.

Has there been a breach of the Code?

21. The parish council decides to rent out a playing field to a local football club. Councillor Gray spoke at the parish council meeting in favour of the playing field being rented out. Councillor Gray is chairman of another local football club which also intends to use the playing field.

Has there been a breach of the Code?

22. You are a trustee of your parish memorial hall. Your parish council is due to consider a planning application for the memorial hall.

What interest, if any, do you have under the Code?

23. The Town Council has on a number of occasions considered proposals for the regeneration of the town centre, including pedestrianisation of the main street. A number of traders complain that the chairman has consistently failed to listen to the concerns of businesses and ploughed on with personal preference to prettify the town centre which will cause it to be a commercial ghost town.

Do any Code of Conduct issues arise?

Babergh

District Council

COUNCILLOR CONDUCT – COMPLAINTS AND HOW TO AVOID THEM

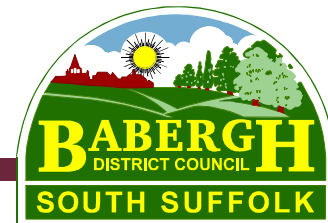
February 2009



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Declaring Interests – Getting it Right



When does the Code apply?

- When you conduct Council business
- When you act or give the impression of representing your Council
- Government Consultation
- Does not currently apply to criminal conduct

What is a Personal Interest?

Where the business of the Council under consideration relates to, or is likely to affect –

- (a) An interest that you must register, or
- (b) The well-being or financial position of:
 - You
 - Your family
 - Someone with whom you have a close association

to a greater extent than the inhabitants of your area affected by the decision

What interests must I register?

- Body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your Council (Public Service Interest)
- Body exercising functions of a public nature (Public Service Interest)
- Body directed to charitable purposes
- Body whose principal purposes include the influence of public opinion or policy (e.g. political party)
- Your employment or business
- Your employer

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- Person/body who has paid you election expenses or any expenses in carrying out your duties (excluding the Council)
- Person/body whose business or land is within the town/parish and in whom you have a financial interest exceeding £25,000 or 1/100 of the issued share capital
- Contract for goods, services or works between your council and you or a business in which you have an interest
- Interests of any person from whom you have received gifts or hospitality estimated to exceed £25
- Land in the town/parish in which you have a beneficial interest
- Land where your council is also your landlord or the landlord to a business in which you have an interest
- Land which you have a licence to occupy for 28 days or more



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Personal Interests

- Declare that you have a personal interest
- State the nature of that interest at commencement of the item or as soon as the interest becomes apparent

Exceptions:

- Gifts or hospitality registered more than 3 years before the date of the meeting
- Sensitive information
- Public service interests, declare if and when you speak on the matter (unless the interest is also prejudicial)
- You are unaware of the existence of the interest



Prejudicial Interests (1)

A personal interest and all of the following conditions are met:-

1. The matter is not within the exempt categories
2. The matter relates to your financial interests or a licensing or regulatory matter
3. A member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest

Prejudicial Interests (2)

Exempt categories of decisions (i.e. not prejudicial) –

- Housing – where you hold a tenancy or lease with your council (unless the matter relates to your tenancy/lease)
- School meals, school transport and travelling expenses – where you are a parent/guardian of a child in full-time education or a parent governor (unless it relates to your child's school)
- Statutory sick pay – where you receive this or are entitled to do so
- Allowances, payments or indemnities for members
- Ceremonial honours for members
- Setting of council tax or precept

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Declaring Prejudicial Interests

- Declare that you have a personal & prejudicial interest
- Identify the item of business
- State the nature of that interest
- Do so at the commencement of the item or as soon as the interest becomes apparent

Immediately leave the room (unless para 12(2) is adopted)

You must not seek to improperly influence a decision in which you have a prejudicial interest

Exception

The Standards Committee has granted you a dispensation



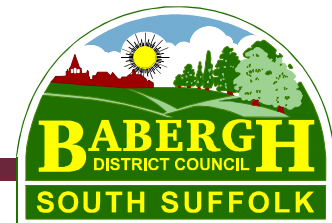
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Prejudicial Interests – Optional Provision

Paragraph 12 (2)

- Make representations, answer questions or give evidence
- Despite prejudicial interest
- Subject to the public being entitled to attend for that same purpose
- Leave before debate starts
- Specific resolution to include para 12(2)



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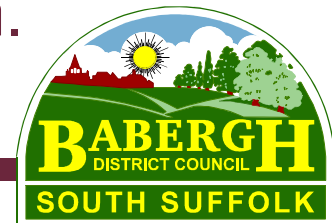
District Council

Summary - Declaring Interests

Personal Interest if the business relates to or affects:

(1) A body in my Register of Interests

(2) The well-being or financial interests of you, your family or close associates more than others affected in your parish.



Prejudicial Interest if:-

1. The personal interest relates to financial interests, or a licensing/regulatory matter, and
2. It is not exempt, and
3. Public would regard interest as so significant as to prejudice your judgement

The Complaints Procedure – How it Works

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- Complaint form received by Standards Committee
- Anonymous complaints not accepted
- Anonymity may be granted
- Councillor notified
- Meeting of Standards Assessment Sub-Committee within 20 working days

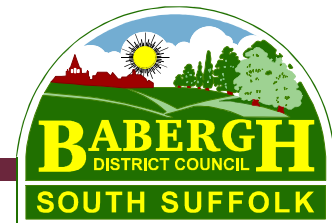


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Assessment Sub-Committee

- 3 members
- Independent Chairman
- Closed meeting
- Considers any anonymity request from complainant:
 - Risk of physical harm to complainant
 - Complainant works closely with Councillor and could suffer disadvantage
 - Serious health condition



Assessment

Initial Tests

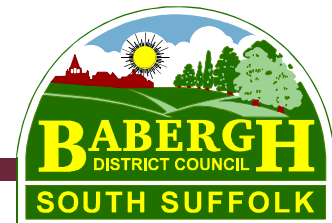
1. Is the complaint against a Councillor within the district?
 2. Was the member a Councillor at the time?
 3. Would the alleged conduct amount to a breach of the Code?
- If answer to any of the above is 'no', complaint is rejected
 - If answer to 1-3 is 'yes', Sub-Committee proceeds to apply adopted assessment criteria

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Assessment criteria

- Is there sufficient information to conduct the assessment?
- Is the Councillor still in office?
- Has the complaint been investigated before?
- Is the complaint about something that happened so long ago, there is little benefit in taking action now?
- Is the complaint too trivial to warrant action?
- Does the complaint appear malicious, or tit or tat?

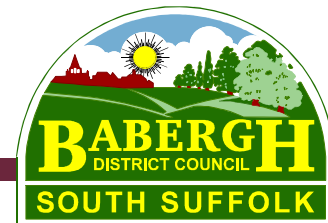


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Sub-Committee's Decision

- Refer/complaint to Monitoring Officer for investigation
- Refer complaint to Standards Board
- No action
- Refer complaint to Monitoring Officer for other action:
 - training
 - conciliation
 - as the sub-committee considers appropriate



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Decision Notice

Notice of the decision is given as soon as practicable to:

- councillor concerned
 - Parish Council
 - complainant
-
- Explains the points considered, conclusions & reasons
 - Available for public inspection
 - Councillor's name withheld only if in the public interest



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No action

- Complainant has 30 days from date of decision notice to request a review
- Review undertaken by Mid Suffolk District Council Standards Committee
- Same powers as Assessment Sub-Committee
- Further decision notice
- No further right of appeal



Other Action

- MO reports back to the Assessment Sub-Committee on other action taken within 3 months
- If satisfied of action, gives written notice
- If not satisfied, gives further direction to the MO

Investigation

- Conducted by MO
- Councillor has opportunity to comment on the complaint
- Parish Council has duty to assist if requested
- Provide reasonable access to documents
- MO report finalised

Hearing

- If MO finds no breach, Committee considers and either accepts or refers to a hearing.
- If MO finds a breach, hearing before the Standards Committee
- Sanctions
 - apology
 - censure
 - 6 months suspension
 - 6 months partial suspension