

BABERGH DISTRICT COUNCIL

FROM: The Monitoring Officer

REPORT NUMBER **F161**

TO: STANDARDS COMMITTEE

DATE OF MEETING 26 January 2007

MEMBERS CODE OF CONDUCT CASE REPORTS

1. **SUMMARY**

This report updates members on recent national 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. The report is produced for training purposes.

2. **RECOMMENDATIONS**

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 J (APE 0236/0237) – Disrepute/Prejudicial Interests**

It was alleged that Cllr J brought his office or authority into disrepute by:

1. failing to pay rent and business rates to the council for a community centre of which he was the director;
2. failing to produce proper accounts for the centre; and
3. compromising the impartiality of a council employee by bullying and intimidating conduct with the intention of deferring or cancelling the recovery of the debt.

The Adjudication Panel's case tribunal upheld the allegations, deciding that Cllr J brought his office and authority into disrepute, in breach of the Code of Conduct.

In a separate case, it was alleged that Cllr J failed to register his interest as a leaseholder of the community centre in his Register of Interests, and failed to declare a personal and prejudicial interest at a council meeting when it considered a bid for funding for the community centre.

The case tribunal found that Cllr J's conduct as a leaseholder of the community centre was unseemly, dishonest and lacking in integrity. Cllr J was specifically advised that this was an interest which he had to register. The tribunal decided that Cllr J failed to comply with the Code of Conduct by failing to register a financial interest in his Register of Interests.

Finally, the tribunal noted that Cllr J chaired a meeting of a council committee at which a funding application for the community centre was considered. Cllr J had a personal and prejudicial interest in the matter, but remained in the room while the application was discussed, and agreed to a course of action adopted by the committee. The tribunal accordingly decided that Cllr J failed to declare a personal interest and failed to withdraw from a meeting in which he had a prejudicial interest.

The tribunal disqualified Cllr J from being or becoming a member for 15 months.

4.1.2 **CLLR C (APE 0362) – Disrepute and Lack of Respect**

It was alleged that Cllr C interrupted an interview between a reporter and another councillor during a break in a council meeting. Cllr C allegedly physically steered the reporter out of the room and then harangued and threatened the councillor, using extreme swearwords.

The Adjudication Panel's case tribunal found that Cllr C was acting in an official capacity as a councillor at the time of the incident, as it took place during an interval in a council meeting, next to the council chamber and arose from a debate in which Cllr C became angry with the councillor he later confronted. A number of people were alarmed by the event, which had to be ended by the intervention of a council officer. The case tribunal decided that Cllr C failed to comply with the Code of Conduct by failing to treat others with respect and by bringing his office or authority into disrepute.

The tribunal took into account the fact that this was an isolated incident, as well as Cllr C's apologies for his behaviour. In these circumstances, the tribunal decided not to suspend the member, but to admonish him and warn him to comply with the Code of Conduct in the future.

4.1.3 **CLLR B (APE 0361) – General Conduct & Formulation of allegations to the Case Tribunal**

There were 22 allegations against Cllr B, some alleging multiple breaches of the Code. Upholding 7 of the allegations, the tribunal found that Cllr B breached the Code by failing to treat others with respect, bringing his office or authority into disrepute and using his position as a member improperly to secure for himself or any other person an advantage or disadvantage.

The breaches involved making disparaging and unfounded remarks to a fellow Councillor in public and advertising his business in the Town Hall canteen.

The tribunal expressed its disquiet with the way the allegations had been presented to it. It noted that a number of the allegations had little intrinsic merit. A scatter-gun approach to the allegations had been used in the hope that some of them might find their target. This was not the case. The failure of so many allegations in this case might have been seen as a victory for Cllr B which would have the opposite effect to that which was hoped.

4.1.4 **CLLR N (APE 0355) – Personal and Prejudicial Interests**

It was alleged that Cllr N (a district councillor), failed to declare a personal and prejudicial interest, and failed to withdraw from the room, when the council discussed the Town Policy Limit, a planning policy line, at council meetings in October 2003 and March 2004.

Cllr N allegedly had an interest in the issue because he was involved with the Open Spaces Protection Group. Cllr N also allegedly had an interest as a result of legal action he had brought against the council in relation to the sale of nearby land, and because he had helped with an application for a town green in the same area. It was also alleged that Cllr N had an interest because he lived near a sports ground, which might have been affected by the redrawing of the planning policy line.

It was also alleged that:-

1. Cllr N improperly used his position as the Chair of the Policy Project Group to influence a decision on the Town Policy Limit.
2. Cllr N failed to declare an interest, failed to withdraw from the room and improperly sought to influence the district council's decisions on the proposed Bypass Eastern Route at a number of meetings over a 7 month period.
3. Cllr N had an interest in a discussion of planning guidance on the provision of open spaces at a meeting in April 2004, and failed to declare this interest, failed to withdraw from the room, and improperly sought to influence a decision on the matter.

The case tribunal found that none of the allegations against Cllr N were substantiated because:-.

- (a) the Open Spaces Protection Group did not oppose all developments on open space and did not have a particular policy in relation to the land in question. Also, the group had effectively folded before the relevant meetings.
- (b) Cllr N's legal action in relation to the sale of council-owned land was consistent with that of a community leader, and did not concern his own personal well-being. The legal action concerned different land and took place long before the discussion of the Town Policy Limit, and was undertaken to ensure the council complied with its own statutory safeguards.
- (c) there was no link between the application for a town green and the planning policy line discussed at the relevant council meetings.
- (d) Cllr N did not have an interest in the planning policy line because of the location of the sports ground. The development of the sports ground would not affect Cllr N to a greater extent than others in the area of the authority.

The tribunal therefore concluded that Cllr N did not have a personal or a prejudicial interest in the Town Policy Limit at the meetings and so there was nothing improper in his participation in a meeting to discuss the matter.

The tribunal found that the allegation that Cllr N had a personal or prejudicial interest in the discussion of planning guidance on open space was misconceived, as the guidance concerned the amount of open space in new developments, and not the protection of open space. The tribunal therefore decided that Cllr N was not in breach of the Code in this respect.

Finally, the tribunal found that Cllr N did not have a personal or prejudicial interest in the discussion of the Bypass Eastern Route as the bypass had no bearing on Cllr N's well-being.

4.1.5 **CLLR J (APE 0226) – Disrespect and Disrepute**

It was alleged that Cllr J verbally attacked council employees and members on a number of occasions in meetings, letters and comments to the local press between October 2002 and March 2003. Cllr J also allegedly bullied and intimidated officers who did not comply with his wishes.

It was also alleged that Cllr J disregarded the legal advice of the council's Monitoring Officer on the implications of proposals being considered by the Cabinet. Cllr J allegedly called on the council's Chief Executive to fire the Monitoring Officer when he was challenged.

It was further alleged that Cllr J compromised the impartiality of a council officer by asking them to implement a change to the council's housing allocation policy without complying with the council's decision-making procedure.

Finally, it was alleged that Cllr J failed to treat the Monitoring Officer with respect by making an offensive comment about her to staff in her office, and by suggesting that the Chief Executive should call for her resignation.

The Adjudication Panel's case tribunal found that Cllr J sent inappropriate and disrespectful letters to a council officer after a meeting in November 2002. The tribunal also found that Cllr J interrupted a meeting in December 2002 and talked over the officer in an inappropriate and disrespectful manner. Cllr J also interrupted a Cabinet meeting in March 2003, acted inappropriately and in an aggressive and disruptive manner, and disrespectfully dismissed the need for a formal report by the Monitoring Officer. In October 2003 Cllr J referred to the Monitoring Officer as "an evil witch" in front of her office staff. The tribunal found that Cllr J's pattern of behaviour was damaging to good governance and resulted in bad publicity.

The tribunal reached the decision that Cllr J had failed to comply with the Code of Conduct by failing to treat others with respect and by bringing his office as a councillor into disrepute.

The tribunal considered that it was appropriate to disqualify Cllr J because of the repeated breaches of the Code of Conduct. The tribunal accordingly disqualified Cllr J for a year.

4.2 STANDARDS COMMITTEE APPEAL DECISIONS

4.2.1 CLLR S and CLLR M (APE 0367/APE 0368)

In these joined appeals Cllr S and Cllr M appealed against the decision of the Standard's Committee that they had breached the Code of Conduct through their actions in using their positions to improperly confer a disadvantage upon the Clerk of the Parish Council and in so doing bringing their office into disrepute.

The appeals were allowed because the Standards Committee had failed to hold a substantive hearing within the timetable laid down and to give both Cllrs a proper opportunity to put their case.

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