

LOCAL ASSESSMENT

Decisions A-L

CASE A

HILTON BOROUGH COUNCIL - COUNCILLOR PETER CITRINE

Summary

It was alleged that Councillor Peter Citrine published a political leaflet on behalf of the local Liberal Democrats suggesting that people should boycott the shops in the high street belonging to Councillor Leo Hall, the Conservative council leader. This was in response to the council's decision to introduce car-parking charges in the town centre, which the Liberal Democrats were campaigning against. The complainant is an employee of Councillor Hall. She works in a pet shop and alleges that Councillor Citrine is jeopardising her livelihood by effectively encouraging people to patronise another pet shop 200 yards away.

Decision

We consider that encouraging a campaign directly against an individual is potentially disreputable, although this should be seen in the context of a controversial policy and a vigorous political campaign against it. We further acknowledge that the livelihood of the employees of shops boycotted by the public could be adversely affected, although there is nothing to prevent the public from boycotting in order to influence public policy, and indeed there is a long tradition of it. Although the effect of the suggested boycott may be a disadvantage for Councillor Hall and his employees, we consider that the purpose of the campaign is to win votes and overturn the policy rather than to undermine his businesses.

The Standards Board's policy on the content of political leaflets is that matters are unlikely to be investigated unless they enter the realm of extreme and deliberately offensive remarks about other people. Accordingly, the complaint should not be referred for investigation.

CASE B

BOROUGH OF SELCHESTER – COUNCILLOR JULIA HARTY

Summary

It is alleged that Councillor Julia Harty lied at council meetings about her decision to require Local Education Authority appointed school governors to pay the £36 cost of their own Criminal Records Bureau (CRB) checks. This is a process which she had approved while cabinet member for education. The complainant, who is the opposition chief whip, said that Labour councillors received complaints during August 2006 that new governors would have to have a CRB check at their own expense. He also said there were letters in the press criticising the policy. It is alleged that at this stage, Councillor Harty suggested a bursary scheme for those who could not afford to pay. A newspaper article quoted the council as saying that the fee **may** be waived by those not able to pay. It is alleged that at a scrutiny committee on 12 September 2006, Councillor Harty, replying to a question, said that it had always been the policy to reimburse governors their CRB expenses. This is not what she had in fact agreed.

The opposition put down a motion in council on 20 September 2006 on the matter. And it is reported that Councillor Harty again claimed that it was always the policy to reimburse governors for CRB expenses.

Decision

Generally speaking, the Standards Board for England does not refer for investigation complaints which come from council decisions, the implementation of council policy (even where this is apparently flawed), the competence of members or the accuracy of their statements. As we regulate the ethical conduct of members rather than their opinions or the quality of their work, allegations concerning whether members told the truth do not normally disclose a potential breach of the Code of Conduct. It is hence left to the political process to resolve the matter. However, it is considered that the allegation in this instance, from the information provided, discloses potentially disreputable behaviour and therefore a potential breach of the Code.

Nevertheless, on balance it is still considered that the essence of the alleged conduct is more political than unethical, and therefore it is considered insufficiently serious to warrant investigation.

MARNHAM DISTRICT COUNCIL – COUNCILLOR DAVIES

Summary

The complainant is the leader of the council. It is alleged:

- Councillor Davies sent a number of disparaging emails to the council's IT staff, criticising their work and mocking their capabilities and copied them to third parties.
- Councillor Davies sent unfair and derogatory emails about the chief executive, the council's solicitor and the complainant, copying them in to third parties, as well as inappropriate emails to other councillors.
- Councillor Davies became involved in support of a local IT company in a dispute with the council, and was confrontational when officers reminded him about possible conflicts of interest
- Councillor Davies was hectoring and overbearing towards technical officers in the presence of the chief executive and two other members at a meeting held on 23 April 2005.

The Chief Executive asked the junior officers to leave after 20 minutes on account of Councillor Davies's behaviour, and because they were upset at the untimely death of a close colleague the previous Saturday. It is reported that when Councillor Davies was told of this, he retorted, "I suppose you're going to blame him!" It is alleged that Councillor Davies has been warned about his conduct, including formal warnings, but that it has continued.

Decision

The complaint discloses potentially serious breaches of the Code of Conduct, particularly the bullying of officers, and should be referred for investigation. The matter is not recommended for local investigation.

COKETOWN DISTRICT COUNCIL – COUNCILLORS YEO, BAILEY AND MALECKA

Summary

The complainants refer to the proposed development of a council-owned allotment site at Coketown, for 217 dwellings and associated infrastructure, considered by the planning committee on 21 September 2006. It is reported that Councillor Yeo, the executive member for land and property, had been involved in discussion with the developers and council decisions over the sale of the site. It is also reported that the proceeds of the site would be used by the council to pay for a new leisure centre elsewhere in the borough. Having declared a personal interest in the matter at the planning committee, it is alleged that he failed to declare a prejudicial interest and withdraw from the meeting.

It is alleged:

- Councillor Bailey, the chairman, did not ensure that the meeting was conducted impartially due to confusion of members' and officers' roles.
- That the planning officer, as an employee of the council, was not able to give the committee the impartial advice they needed.
- Councillor Bailey refused to allow a local member to speak until the very last moment, and then cut him short before hastily moving to the vote.
- That by allowing the planning officer to warn members that refusal of the application could lead to an expensive appeal, Councillor Bailey thereby allowed undue influence to be put on the committee.
- That when Councillor Malecka asked the chairman and the planning officer if the terms of the development brief had been complied with, the member was given an affirmative answer. The complainants dispute this and say there were breaches of the development brief.

The complainants also object to aspects of the proposed development, the granting of planning permission and the way the meeting was minuted.

Decision

It is not unusual for local authorities to consider planning applications for development of land which they own, and it is noted from the council's constitution that there are procedures for doing so. It is not apparent from the allegation that members failed to follow those procedures. Councils seek to safeguard their interests by obtaining the professional advice of officers, who would be entitled to point out the possible consequences of refusal, given the general presumption that planning

applications will be granted. It is noted that the recommendation was to grant the application, and according to procedure, Councillor Bailey, as chair, would be bound to ensure that the planning officer's views were put forward. Furthermore, chairs have considerable discretion over the conduct of meetings and rules for speaking at committee.

With regard to Councillor Yeo and personal interests as defined by the Code of Conduct, no information has been provided to indicate that by virtue of being the lead member for land and property, the matter affects Councillor Yeo's well-being or financial interest. Furthermore no information has been provided that any of his relatives or friends, are affected by the decision to a greater degree than other people in the ward, or that it was something that he would be required to register in the register of members' interests. It is not considered that being lead member for land and property on the executive would automatically give rise to a personal interest at the planning committee when dealing with a proposed development on council-owned land.

If Councillor Yeo considered that his role on the executive could give rise to concern at the planning committee, the right course of action would be to state it. It appears by the minutes that he did this. However, taking all things into account, it is not considered that Councillor Yeo's prior participation in this matter would give rise to a personal interest which by extension, as a result of public perception, would amount to a prejudicial interest requiring him to withdraw.

The complainants also object to aspects of the proposed development, the granting of planning permission and the way the meeting was minuted.

It would not be the Standards Board for England's role to adjudicate on the development brief or the correctness of members' views, such as the opinion allegedly expressed by Councillor Malecka. Our role is only to adjudicate on their ethical conduct. Similarly, we cannot deal with allegations concerning the conduct of officers, aspects of the proposed development, or the way meetings are recorded.

HOOK PARISH COUNCIL - COUNCILLOR DR JON ROUSE

Summary

It was alleged that Councillor Rouse, the chairman of the parish council, accompanied by the vice-chairman, visited a member of the public at home. Here he made allegations that a group of seven parish councillors, including the complainant, would be pressing for an injunction to prevent the member of the public, a parishioner, speaking at meetings. The parishioner then wrote to each of the seven councillors repeating this allegation and another allegation that he had orchestrated a public protest against the siting of a youth shelter. He enclosed a stamped envelope for them to reply and asked for them to let him know whether the allegations were true or false. He said that if they did not reply he would assume that the claim was true. In this case, he asked them to go ahead and seek the injunction.

The complainant was one of two councillors who replied direct to the parishioner, to say that she was not aware of the actions he referred to being taken, or of a group of seven working in co-operation on the council, and that the allegations were false. The clerk also wrote to the member of the public to say that six of the councillors (one was away) had asked him to reply to say that the allegations were false. The parishioner was not satisfied, wrote to the councillors again to say that the two who had replied personally had not asked the clerk to write on their behalf, and that he would regard the remaining five as having taken the actions originally alleged unless he heard from them by a given deadline.

It is alleged that on 18 April 2005 during public questions, a member of the public made a statement concerning a pre-arranged visit to his house by two senior councillors. The complainant wrote to Councillor Rouse on 20 April asking him:

- If he knew the identity of the two councillors who allegedly paid the visit.
- To name the two councillors allegedly involved and to ask them to explain why they used her name without her knowledge.
- To clear her of any complicity in the alleged actions.
- If he was unable to clear her good name, then to assure her that the exercise was designed simply as character assassination.

The complainant states that she received no response to the letter, and that she put down questions in council on 16 May 2005. She wrote to Councillor Rouse again on 20 May 2005 to convey her disappointment with his handling of her questions. The minutes of the meeting state:

“The Chairman said he had received letters from two Councillors concerning alleged actions of Councillors at an informal meeting. As these letters did not relate to discuss them with individuals outside the meeting.”

On 23 May Councillor Rouse wrote to the complainant to say he regarded the matter as closed. The complainant reports that the member of the public has now told her that Councillor Rouse was one of the two councillors who visited him.

Decision

The Standards Board considers that this matter has escalated as a result of conclusions drawn following Councillor Rouse’s alleged visit, rather than ethical misconduct on the part of Councillor Rouse himself. Regarding the complainant’s disappointment with Councillor Rouse’s response to her letters and questions, we understand that he was seeking to draw a line under the matter in case the situation became further inflamed. No breach of the Code of Conduct is disclosed and the matter should not be referred for investigation.

LONDON BOROUGH OF WALFORD – COUNCILLOR PAT RIX

Summary

The complainant alleges that Councillor Pat Rix has subjected her to unfair treatment on the grounds of religion and race, bullying, victimisation and racial harassment.

It is reported that Councillor Rix was on the interview panel which appointed her, but did not want her for the job and preferred a white woman who did not perform as well as the complainant. It is alleged that Councillor Rix called her a liar when she advised her that a community film had a racist remark in it which would offend and embarrass the complainant. It is reported that Councillor Rix has micromanaged her and set her unrealistic targets to make her look a failure, that she has been publicly humiliated at meetings and verbally abused. She reports that her position as a manager has been undermined, that she has had a meeting with her staff and managers, and been excluded from the meetings.

It is reported that Councillor Rix was unhappy when managers asked the complainant to work on assignments including a petition by the Punjabi Sikh community for a community centre. It is alleged that Councillor Rix tried to stop her being involved in this work, told her that she did not want Pakistanis or Muslims asking for a community centre and made derogatory comments about the various ethnic groups within the Muslim community. The complainant found these remarks offensive as a Pakistani Muslim herself.

The complainant says that her managers failed to manage the situation or to protect her, and that she was unfairly and wrongly dismissed. It is alleged that Councillor Rix has referred to the protocol for officer and member relations as “bollocks” and failed to respond to a questionnaire sent to her under the Race Relations Act.

Decision

It is noted that Councillor Rix is the executive member for community safety in Walford. As such, she is expected to exercise political judgement on sensitive matters such as those mentioned so that officers may follow her lead. Officers who publicly question or criticise the political judgement of members may find themselves the subject of management action. The Standards Board for England does not regulate the policies or opinions of members, and it is not considered that expressing these would amount to racial discrimination or victimisation because the complainant did not agree with them. A disagreement, even a sharp one, does not of itself amount to disrespect. The information provided does not appear to indicate any specific breach of the Code of Conduct.

No information has been provided to indicate that Councillor Rix’s alleged opinion of the interview candidates was based on matters other than suitability for the job. It is also considered that the issues raised are employment and management matters

between the complainant and the authority, for which there are other procedures, and the Standards Board for England cannot be a substitute for these.

The Adjudication Panel for England has dealt with, among other things, allegations of discrimination (Case reference APE 0211, 0212, 0213, 0214, 0215). The Tribunal ruled that it had no jurisdiction to make findings of unlawful discrimination against members in the absence of a decision of an Employment Tribunal on a complaint made to it of unlawful discrimination. It also ruled that Section 71 of the Race Relations Act 1976 has no relevance to an allegation of breach of paragraph 3(1) of the Code of Conduct. Section 19B of Race Relations Act 1976 makes it is unlawful for a public body to do any act which constitutes discrimination, and there is a general duty under the Race Relations (Amendment) Act 2000 to promote racial equality. It is noted that these apply collectively to the London Borough of Walford as a public body and the complainant's employer. Councillor Rix herself is not the complainant's employer.

The Standards Board for England has decided that the allegation should not be referred to an ethical standards officer for investigation. Having taken account of the available information we do not believe that a potential breach of the Code of Conduct is disclosed. We have made no finding of fact.

SCAWTHORPE BOROUGH COUNCIL - COUNCILLOR LEE KREUZ

Summary

The complainant is the clerk to Nith parish council. He refers to a meeting of the council on 19 September 2006 where members discussed financial irregularities arising from the alleged misconduct of the council's groundsmen. It is reported that Councillor Kreuz, the local member of the borough council, attended the open part of the meeting but left with the public before the closed part where this matter was discussed.

It is alleged that a member of the parish council gave Councillor Kreuz a confidential note, which he then showed to the groundsmen two days later. It is also alleged that he told them that they had been the main topic of discussion at the meeting, giving them the impression that he had been present, the matter had been discussed in public, and that the clerk had accused them of stealing money.

It is reported that the note had the top of the page folded over, which one member of staff believed was to conceal a fax number. It is also alleged that he doctored a note headed "To all Parish Council Staff", cutting off the heading to make it look as if it only applied to the staff at the park.

The complainant adds that it is common knowledge that Councillor Kreuz intends to stand for the parish council.

Decision

The allegation presupposes, in advance of an investigation, that a parish councillor has breached the Code of Conduct by providing confidential information to Councillor Kreuz. No information has been provided to indicate that Councillor Kreuz received the information in his capacity as a borough councillor or that he was not acting in his private capacity when he allegedly spoke to the groundsmen and showed them the note. The Code of Conduct applies to members whenever they act in their official capacity, including whenever they conduct the business of their authority or act, claim to be acting, or give the impression they are acting, in their official capacity or as a representative of their authority. This did not appear to be the case here and therefore the Code does not apply.

Furthermore, it is noted that the agenda item concerned is not marked confidential or not for publication. It is also considered that by virtue of the notice issued to parish council staff, the issue of financial irregularity and threats of disciplinary action would soon become fairly common knowledge in the community.

Until such time as Councillor Kreuz becomes a parish councillor, he is not bound by its Code of Conduct.

Note: This case was the subject of a review request. The complainant made a strong case that Councillor Kreuz visited the park in his capacity as a borough councillor in order to put notices on the parish council noticeboards publicising his work. It was also reported that he was very well known in his ward as an active community based councillor. The key paragraphs of the review letter were as follows:

Dear Mr Law

SBE16033.06

Thank you for your letter of 31 December 2006 asking me to review the handling of your complaint. I have carefully considered your further comments and taken legal advice.

You refer to a series of leaks from Nith Parish Council. While this is regrettable, it does not change the fact that Councillor Kreuz is not a member of the authority and is not bound by its Code of Conduct. When he attends its meetings he does so as a member of the public, and the information you have provided does not indicate that he has used his position as a Scawthorpe borough councillor to obtain confidential documents.

In his judgment in the Ken Livingstone case, the judge was very clear that the Code of Conduct only applied to the Mayor of London when he was acting in his official capacity, carrying out the work of the authority, or using his position as a member. It did not make any difference that everyone knows Mr Livingstone is the Mayor of London, or that the incident which led to the case occurred on the steps of London's City Hall after an official function. Likewise, even if everyone in Nith knows that Councillor Kreuz is a member of Scawthorpe Borough Council, and he said he was on his way to a council meeting, he would still be acting in a private capacity at the time of the alleged incident.

You make the case that when Councillor Kreuz visits the park to put notices on the parish council notice board to advertise his work as a borough councillor he is acting in his official capacity when he does so, and was therefore misusing his position when he allegedly spoke to the groundsmen. I understand this line of reasoning. However, I believe that the link between the alleged conduct, namely a private conversation between the men on a parish council matter, and Scawthorpe's Code of Conduct, is too tenuous to disclose a potential breach of that Code in the light of the Livingstone judgment.

I accept that there were some differences in emphasis between your original complaint and the summary of it in the decision notice, but I do not believe that this had a material bearing on the decision.

In reviewing your complaint I looked at whether the original decision was reasonable and was reached in accordance with our procedures. I consider that the final decision was reasonable and that the case was handled correctly.

I realise that you may be disappointed with the results of my review. However, our review process is there to ensure that reasonable decisions are made and that the

relevant procedures have been followed. Now that process is complete, I regret that I will not be able to engage in further correspondence or discussion on this case.

Yours sincerely

David Prince
Chief Executive

WESSEX COUNCIL - COUNCILLOR DOUGLAS

Summary

The East Wessex Community Area Forum covers three wards of the borough: Whapton, Box and Friary. The complainant is a Progressive councillor for Whapton and he and two other Progressives won the ward from Labour in 2004. The council is Labour-run: Councillor Douglas is deputy leader and also chairman of the area forum, which has the power to spend the Housing Investment Programme (HIP) monies allocated to it. Part of the allocation is budgeted to replace old wooden doors on council houses with PVCu doors.

The Progressive councillors for Whapton asked repeatedly for HIP funding for their ward. Each time they were told that it had already been committed for new doors in Councillor Douglas's ward (Box), and the vice-chairman's ward (Friary) with nothing for Whapton, even though there was a street there where doors were in urgent need of replacement (June Avenue). The complainant discovered that the chairman and vice-chairman of the forum have private business meetings in advance of the public forum. The complainant also discovered that Councillor Douglas had allegedly arranged matters so that all the spend on the new doors went to his ward.

It is alleged that at such a business meeting on 24 June 2005, Councillor Douglas and the vice-chairman privately approved the allocation of £14,404 to June Avenue. One of the defeated Whapton Labour councillors, who the complainant says plans to stand again in 2006 and is a friend of Councillor Douglas, then organised a petition along June Avenue asking the council to consider installing new doors. This was presented to the council by a resident on 29 June 2005 and then received by Councillor Douglas at a press call in advance of the formal meeting of the forum. The complainant believes that Labour has orchestrated the petition in the knowledge that the money had already been agreed. The complainant also believes that Councillor Douglas has used and abused his position as chairman of the forum, deputy leader, and as a member of the standards committee to manipulate the allocation of funding to his political advantage. The former Whapton councillor subsequently wrote to the newspaper to take credit for the decision and to criticise the Progressive councillors in Whapton Ward.

Decision

Provided the correct procedures are followed in the allocation of monies, no breach of the Code of Conduct would be disclosed. It is normal in the conduct of local authority business for members to meet privately with or without officers to discuss policy, and no information has been provided to indicate that the £14,404 for new doors was not formalised in line with financial regulations. In terms of the petition and public relations generally, it is common in political life to claim credit to gain advantage, and it is considered that political opponents also have a platform in the

media and in the council chamber to put forward their views and counter those of others.

In all the circumstances, it was considered that the alleged conduct (even if it were found to have occurred) would not have involved any failure to comply with the authority's Code of Conduct. Accordingly, we decided that this allegation should not be investigated.

GREAT NORTON PARISH COUNCIL – COUNCILLOR JAMESON

Summary

The complainant refers to a meeting of the parish council on 16 November 2006. It is alleged that when the chairman asked if there was any other business, Councillor Jameson said, “I’ve got some!”, swung round in his chair, directly facing the complainant, and launched into a loud and aggressive verbal attack. It is alleged that he accused the complainant of calling the chairman “undemocratic” at a previous meeting and demanded that she apologise. The complainant subsequently explained in writing that she was accusing the council of being undemocratic, not the chairman, and has apologised to him for the misunderstanding. She also wrote to the chairman of the parish council to complain about Councillor Jameson’s alleged treatment of her at the meeting.

It is reported that the next meeting of the parish council, advertised for 21 December 2006 at the village hall, was brought forward to 20 December 2006 at the Lions Club, which precluded the public, including the complainant, from attending. It is alleged that the meeting went into confidential session to discuss the complaint against Councillor Jameson, but that he failed to declare a prejudicial interest in the matter and remained in the meeting that considered a matter affecting him.

The chairman then wrote to the complainant to say that the parish council had found that, “as the alleged incident took place after the parish council meeting had closed, they found that Councillor Jameson was not in breach of any form of misconduct. It was unanimously agreed that no action be taken regarding Councillor Jameson and the matter to be considered closed”. They also agreed to ban the public from speaking at future meetings.

Decision

The allegation discloses potential failures to observe the Code of Conduct. The parish council was not in a position to consider a complaint of this nature, which is the role of the Standards Board for England. It was also not in a position to reach a conclusion on the matter in private without an investigation. The parish council further noted that the justification for Councillor Jameson not being in breach of the Code of Conduct on 16 November was that the meeting had ended, not that he did not do it. The High Court judgement, that the Code of Conduct cannot be applied to behaviour outside of a member’s functions of office, is not considered to be adequate in justifying a decision not to refer the matter for investigation. This is because it is alleged that the council was still dealing with any other business, and that the alleged matter relates to council business and Councillor Jameson’s position as a councillor.

NETTINGTON TOWN COUNCIL – COUNCILLOR GOLD

Summary

The complainant refers to the town hall at Nettington, which belongs to the town council. It is reported that the county registration service rents offices at the town hall and Town Councillor Gold is employed as a registrar. It is also reported that Councillor Gold declared an interest in an agenda item regarding the town hall at a council meeting on 24 May 2004. It is further reported that in 2005, it was agreed in principle to hand the town hall over to a charitable trust, make a grant to the trust and to seek legal advice. It is also reported Councillor Gold is one of three councillors to be on a joint working group with the trust.

Following legal advice, on 27 February 2006 the council “reaffirmed” earlier resolutions concerning the trust, with Councillor Gold voting in favour. It is also reported that after she became town mayor in May 2006, she put herself forward as the council representative on the trust. The complainant refers to a meeting between councillors and the trust which took place on 3 July 2006. She says she had asked for the minutes but had been told that it was an informal meeting, which was not the impression created beforehand.

The complainant has also provided a report of the “Nettington Town Hall Joint Working Group”, which includes Councillor Gold. It states that she has had final sight of the draft briefing for the solicitor who would be drawing up the draft lease for the town hall. The draft briefing refers to the “need to agree continuing office space for the town clerk and use of the council chamber for meetings at a favourable rent and for the Registrar at the rent negotiated with the county council...”. The complainant has also provided a covering memo from the town clerk, which states that the brief will be discussed with Councillor Gold and other members.

It is thereby alleged that Councillor Gold has a conflict of interest between the town council and her employer, which rents her place of work from the council in the building whose future is under consideration. It is also alleged that having previously acknowledged this, Councillor Gold has subsequently become more closely involved in the issue without declaring an interest.

Decision

The allegation discloses a potential conflict of interest between the town council and her employer, which rents her place of work from the council in the building whose future is under consideration. It appears that at an earlier meeting Councillor Gold acknowledged this, but has subsequently become more closely involved in the issue without declaring an interest.

The Standards Board is aware of the allegations which the subject member has already made against the complainant, but considers that a potentially serious breach of the Code of Conduct is disclosed here which could not be explained solely as tit for tat. The matter should be referred for local investigation.

CENTRAL BARTON URBAN PARISH COUNCIL – COUNCILLOR ROBERT PAXTON

Summary

The details of the case are summarised in the Standards Board for England's decision notice below. The complainant sought a review of the decision not to refer the matter for investigation. Members were asked to decide, in light of the review request, whether that decision should be overturned or upheld.

The following is the Standards Board for England's original decision:

Decision Notice

Reference **SBE16970.06**

The Complaint

The Standards Board for England recently received a complaint from Mr Peter Goodwin concerning the alleged conduct of Councillor Robert Paxton of Central Barton Urban Parish Council. Officers conducted an assessment and decided not to refer the complaint for investigation. The following summarises the general nature of the allegation.

It is reported that Councillor Paxton attended a meeting of Central Barton Place Making Group on 15 September 2006, and that the meeting was confidential. It is alleged that he took documents from the meeting and, with others, copies them with a covering letter to members of Grange Road (Freehold) Ltd. It is alleged that the letter sought to discredit the existing directors of the company and further Councillor Paxton's chances of being elected a director of the company.

In particular, it is alleged that architects acting for the directors of the company (including the complainant) sought an informal officers' opinion on the possibility of building an on a plot at Eaton Mews. Unbeknown to the architects, the matter was discussed by the place-making group, with a sketch plan and a 3-D graphic.

Decision

Officers have obtained the terms of reference of the group when it was set up by Barton Partnership to assist in the exercise of its planning powers, and it is noted that the parish council, along with other parish councils and agencies, has a representative on the group. The preliminary inquiry has also confirmed that Councillor Paxton is appointed to the place making group by Central Barton Urban Parish Council.

Although the meetings may be “confidential” in the sense that they are not open to the public, that does not mean that all the things discussed there are confidential. It is also noted that the group brings together a number of stakeholders. It would be unlikely for a joint advisory panel of this diverse nature to be asked to consider sensitive information, unless by error. This is particularly as there is an expectation that representatives will liaise between the partnership and the bodies which appoint them. In this connection it is noted that the documents are not marked “confidential” or otherwise not for publication, as would normally be the case in local government if there was a risk that they might unintentionally enter the public domain.

It is considered that the allegations concerning the freehold and right-to-manage companies relate to Councillor Paxton’s private capacity.

The Standards Board for England has decided that the allegation should not be referred to an ethical standards officer for investigation. Having taken account of the available information we do not believe that a potential breach of the Code of Conduct is disclosed. We have made no finding of fact.

We notify all concerned parties in writing once we have assessed a complaint. This decision notice is sent to the person or persons making the allegation, the member against whom the allegation was made, the monitoring officer of the relevant authority and the clerk to the parish council.

Review

At the complainant’s request, the Standards Board's Chief Executive (or, in his absence, another senior officer) can review and change a decision not to refer an allegation for investigation. However, he will generally only do this if he is persuaded that the decision was unreasonable in law. This would be if the decision was flawed because of the irregular way in which we processed the allegation, or because we made an irrational judgement on the reported facts.

A request for the Chief Executive to conduct a review has to be made in writing. We must receive the complainant’s written request within 30 days of the date of this notice, explaining in detail on what grounds our decision should be reviewed.

If we receive a request for a review, we aim to deal with it within two weeks of receipt. We will write to all the parties mentioned above, notifying them of the outcome.

Terms of Reference

The Standards Board for England was established by the Local Government Act 2000 with a primary duty to consider written allegations. The Act also gave the Standards Board a wide discretion to decide whether or not a written allegation should be referred to an ethical standards officer for investigation.

The Local Government Act 2003 permitted the Standards Board for England to delegate this function to nominated officers. In doing this, the Board has established a careful checking and monitoring procedure.

Only the information provided by the complainant is assessed. For this reason, and to avoid unnecessary anxiety for members, officers do not normally contact the parties before notifying them of the decision.

Additional Help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice, require large print, or a Braille or taped transcript, or translated version of the information in this letter, we are able to assist you.

Signed Date

**Lucy Morris – Acting Head of Referrals
(On behalf of the Standards Board for England)**

Here is the response to the complainant's review request:

14 February 2007

Mr Peter Goodwin
Rosemount Properties
Above Bar Gate
Southampton
SO1 2NP

Dear Mr Goodwin

SBE16970.06

Thank you for your letter of 28 January 2007. The Chief Executive is away, and he has delegated power to me to conduct the review of your case in his absence.

I note your dissatisfaction with the decision taken by officers not to refer this matter for investigation. I have now had an opportunity to review the relevant file and I have carefully considered the comments you make on this matter.

The Code of Conduct in relation to confidential information is quite tightly drawn, and refers to the disclosure of information given in confidence, or information which a member acquires which they believe to be of a confidential nature.

The Standards Board for England's guidance on this matter, published in *The Case Review, no.1, vol.1*, is clear. It says, "members are not expected to be clairvoyants. The person giving the information needs to make sure that the member is aware that the information is being given 'in confidence' ". The documents acquired by Councillor Paxton were not marked confidential, and they did not come with a request asking him to keep them to himself. I do not know the exact conditions under which the place-making group meets, but it is apparent from the terms of reference that it aims to involve the community, and in any case, there is a general expectation that the town and country planning process will be transparent.

In reviewing your complaint I looked at whether the original decision was reasonable and was reached in accordance with our procedures. I consider that the final decision was reasonable and that the case was handled correctly.

I realise that you may be disappointed with the results of my review. However, our review process is there to ensure that reasonable decisions are made and that the relevant procedures have been followed. Now that process is complete, I regret that neither I nor the Chief Executive will be able to engage in further correspondence or discussion on this case.

Yours sincerely

Paul Hoey
Head of Policy and Guidance

ANSTY METROPOLITAN BOROUGH COUNCIL – COUNCILLOR MAHMOOD KHAN

Summary

The details of the case are summarised in the Standards Board for England's decision notice below. The complainant sought a review of the decision not to refer the matter for investigation. Members were asked to decide, in light of the review request, whether that decision should be overturned or upheld.

The following is the Standards Board for England's original decision:

Decision Notice

Reference SBE13100.06

The Complaint

The Standards Board for England recently received a complaint from Councillor Andy Hill concerning the alleged conduct of Councillor Mahmood Khan of Ansty Metropolitan Borough Council. Officers conducted an assessment and decided not to refer the complaint for investigation. The following summarises the general nature of the allegation.

It is reported that Councillor Mahmood Khan has been a member of a voluntary organisation, the Qadiya Group, since before the adoption of the Code of Conduct and his election as a member, and that he was identified in the *Ansty Evening News* in December 2005 as chairman of the group.

The first part of the allegation concerns land at Earl Street, Ansty. It is reported that one of the council's estates surveyors wrote to Councillor Khan as ward councillor in August 2004 to say that a request to buy the land had been received and that he would welcome any opinions members may have on the proposal as ward member for the area. Another surveyor wrote to ward members in September 2005 with a plan of the site. He wrote to say that the site was the subject of a grant in November 2004 to the Qadiya Group of an exclusive arrangement for 12 months. This was to enable details to be prepared for the development of a mosque on the site, and that the group had progressed matters resulting in negotiations for their purchase of the site. On 8 February 2006 a chief officer confirmed to the complainant that on each occasion ward members were consulted, they indicated their support for the disposal of the land.

It is therefore alleged that Councillor Khan has a conflict of interest and should have taken no part in the consultation process due to his close involvement with the Qadiya Group. It is also alleged that he has failed to register his interest, and that he is taking part in a meeting or making a decision where he has an interest that is so significant that it is likely to affect his judgement.

The second part of the allegation concerns a petition handed to the Mayor of Ansty with 259 signatures from the Earl Street community and the Earl Community Group calling upon the council not to sell the land. It is reported that the leader of the council gave the petition to Councillor Idris Khan, another ward councillor. The complainant reports allegations that Councillor Mahmood Khan was visiting the petitioners, and was concerned that intimidation was occurring. He believes it is reasonable to assume that Councillor Idris Khan gave the petition to Councillor Mahmood Khan. Another member spoke to the leader, Councillor Rigby, and it is reported that she asked Councillor Mahmood Khan to stop what he was doing.

The complainant has provided a newspaper article which refers to different opinions as to what the land should be used for: as a mosque, as a children's play area, or as a small mosque with a play area attached.

Decision

Standards Board officers have seen copies of the relevant reports to the executive member on 29 November 2004, 15 November 2005 and 24 January 2006. On the first occasion, she agreed that the council discuss the future of the site exclusively with the Qadiya Group for a period of twelve months. In November 2005, officers recommended that terms for the group's purchase of the site be agreed in principle subject to planning permission. The executive member asked for further examination of the scheme. The report listed the trustees of the Qadiya Trust, which did not include Councillor Mahmood Khan. (The January 2006 report noted growing concern about the potential loss of open space in the area, and the executive member asked for an in-depth consultation exercise to be undertaken in the absence of any decision.)

It is noted that an updated version of Councillor Khan's entry in the register of members' interests dated 10 February 2006 (the date the complaint was submitted) appears on the council's website. This is different from the one provided by the complainant dated 24 June 2003. The following note is appended to it:

"There is Qadiya Group in Ansty and this is a musical group and the objective of this group is to provide cultural and artistic opportunities (sic) for people in Ansty including lessons on traditional musical instruments.

"To organise social events outing and leisure activities to reduce isolation and increase the members' social circle, do other such things necessary to the attainment of the said objective.

"So I am a member of this group since 28 years. The group try to buy land in Earl Street to create a small mosque and medressa for the local children. I am not a trustee, president or any other officer. I am only signing on the cheque, moreover the mosque and medressa is the charity society. Nobody can sell, nobody can buy, nobody has ownership of the building, which are charity.

"(2) I am trustee of Islam Masjid, Great Central Street, Geltsdale since 1983 up to present. So I have inform my clear cut interest in Earl St land. (Signed) Councillor Mahmood Khan"

The Charity Commission website does not indicate that the Qadiya Group is a registered charity, and although Councillor Khan states in his declaration that it has a charitable purpose, he adds that he does not hold an official position there but that he is authorised to sign cheques.

With regard to the allegation of intimidation, it is considered that members are entitled to call on their constituents, and no information has been provided to indicate that this involved duress.

No information has been provided concerning meetings of the authority at which Councillor Khan was present and failed to declare an interest in the matter. It is not considered that responding as a ward member to general consultation on the future use of the site in the absence of any particular planning application would disclose a potential breach of the Code of Conduct.

The Standards Board for England has decided that the allegation should not be referred to an ethical standards officer for investigation. Having taken account of the available information we do not believe that a potential breach of the Code of Conduct is disclosed. We have made no finding of fact.

We notify all concerned parties in writing once we have assessed a complaint. This decision notice is sent to the person or persons making the allegation, the member against whom the allegation was made, and the monitoring officer of the relevant authority.

Review

At the request of the complainant, the Standards Board's Chief Executive (or, in his absence, another senior officer) can review and change a decision not to refer an allegation for investigation. However, he will generally only do this if he is persuaded that the decision was unreasonable in law. This would be if the decision was flawed because of the irregular way in which we processed the allegation, or because we made an irrational judgement on the reported facts.

A request for the Chief Executive to conduct a review has to be made in writing. We must receive the complainant's written request within 30 days of the date of this notice, explaining in detail on what grounds our decision should be reviewed.

If we receive a request for a review, we aim to deal with it within two weeks of receipt. We will write to all the parties mentioned above, notifying them of the outcome.

Terms of Reference

The Standards Board for England was established by the Local Government Act 2000 with a primary duty to consider written allegations. The Act also gave the Board a wide discretion to decide whether or not a written allegation should be referred to an ethical standards officer for investigation.

The Local Government Act 2003 permitted the Standards Board for England to delegate this function to nominated officers. In doing this, the Board has established a careful checking and monitoring procedure.

Only the information provided by the complainant is assessed. For this reason, and to avoid unnecessary anxiety for members, officers do not normally contact the parties before notifying them of the decision.

Additional Help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice, require large print, or a Braille or taped transcript, or translated version of the information in this letter, we are able to assist you.

**Signed Date
Head of Referrals (On behalf of the Standards Board for England)**

Here is the response to the complainant's review request:

10 April 2006

Cllr Andy Hill
64 Gartside Way
Geltsdale
GE3 5ES

Dear Councillor Hill

SBE13100.06

Thank you for your letter of 21 March 2006 asking me to review the decision taken by my officers not to refer your complaint for investigation.

I see that you have considered their decision carefully, and that you have not asked for a review of the case in its entirety. I have now had an opportunity to review the relevant file and the aspect of Councillor Khan's involvement in this matter as ward councillor, and I have taken into account the additional comments you make.

I accept that Councillor Khan's reported close involvement with the Qadiya Group, whatever his position within it (and I note his statement that he is authorised to sign cheques), could give rise to a lack of transparency. You express concern that the executive member may not have been aware of his involvement when she made her decision on 15 November 2006. I therefore consider that the belated and ambiguous addendum to his entry on 10 February 2006 is in fact an issue, and I have decided to refer this matter for investigation by an Ethical Standards Officer. I note that you do not wish to pursue the allegations concerning declarations of interest at meetings of the authority or the petition, and these matters will not be referred for investigation.

The ethical standards officer will decide either to conduct the investigation personally, or to refer the matter to the relevant authority for investigation by their monitoring officer. For further information, please see the attached guide to our investigations process.

I have also written to Councillor Khan and the monitoring officer of Ansty Metropolitan Borough Council informing them of my decision. There has been no finding of fact at this stage: simply a decision that the allegation should be investigated.

An officer from our investigations department will be in contact with you shortly.

Yours sincerely

David Prince
Chief Executive