

STANDARDS COMMITTEE

1ST OCTOBER 2003

STANDARDS BOARD FOR ENGLAND – REPORT

INFORMATION

Members are requested to note the report referred to this Committee by Council at its meeting held on 22nd July 2003.

Members are requested to note this report

- (1) The Standards Board for England completed a report Case SBE408.02 (the report) on the 24th March 2003.
- (2) Please find attached as an appendix a summary of the report resulting from the Standards Board's investigation.
- (3) The report was presented to Council on the 22nd July 2003 who referred the report to this Committee.
- (4) This Committee may wish to consider recommendations that it feels may deter similar future breaches of the Code of Conduct such as consulting with fellow Members in order to reach agreement prior to any publication being made relating to a fellow Member whilst acting in his or her official capacity.

Sources of Information

Standards Board for England – Report
Reference SBE408.02

Minutes of Council Report dated 22nd July
2003

Contact Officer:

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ROBIN HALES
CHIEF EXECUTIVE

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APPENDIX

Case No. SBE408.02

This summary outlines the conclusions reached in Case SBE408.02. This case concerned an allegation against Councillor David Watson of Sevenoaks District Council. The allegation relates to Paragraphs 2(a), 2(b), 4 and 5(a) of the Code of Conduct. Paragraph 2(a) states that a member must "promote equality by not discriminating unlawfully against any person". Paragraph 2(b) states that a member must "treat others with respect". Paragraph 4 states that "a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute". Paragraph 5(a) states that a member "must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage".

Date received:

5 July 2002

Date passed to ESO:

17 July 2002

Date completed:

24 March 2003

Allegation:

A member unlawfully discriminated against someone, failed to treat others with respect, brought his office or authority into disrepute and improperly secured advantage/disadvantage for himself/another person.

Outcome:

In relation to Paragraph 2(a) of the Code of Conduct, which states that a member must "promote equality by not discriminating unlawfully against any person", no evidence of any failure to comply with the Code of Conduct under Section 59(4)(a) of the *Local Government Act 2000*.

In relation to Paragraphs 2(b), 4 and 5(a), which state that a member must "treat others with respect", that a member "must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute" and that a member "must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage", in the absence of Section 66 regulations, no action needs to be taken under Section 59(4)(b) of the *Local Government Act 2000*.

The complainant alleged that Councillor Watson wrote an article in a newsletter suggesting that constituents should contact him with their problems while a female Councillor from an opposing political group in a neighbouring ward, was on maternity leave.

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The complainant claimed that Councillor Watson's article failed to treat her with respect and tried to undermine her position as a Councillor. The complainant alleged that Councillor Watson failed to promote equality and unlawfully discriminated against her by suggesting that she was unable to do her job while she was on maternity leave. Electoral boundary changes meant that the two members' wards were to be merged in May 2003, and the complainant alleged that Councillor Watson's article was an improper use of his position to confer a political advantage on himself. The complainant claimed that Councillor Watson's conduct brought his office or authority into disrepute.

Councillor Watson helped to write a small article that was published in his political group's local newsletter in June 2002. The article stated that the complainant "has decided to take time off from council duties following the recent birth of her son. During the time she is unable to assist local residents, District Councillor David Watson, [sic] will be happy to discuss any problems with them. Contact David on..."

The complainant wrote a letter to a local newspaper, which was published on 4 July 2002. In it, she stated that she was still actively working for the Council, although she had been unable to attend evening meetings since the birth of her son. She stated that arrangements had already been made to support her during maternity leave and constituents had been notified through the newspaper that they could contact the Leader of the Council if they could not get hold of her.

Councillor Watson wrote a letter to the newspaper, which was published on 11 July 2002, which stated that "The wards of Riverhead and Dunton Green are being merged next May, and as Riverhead residents will be affected by future plans for the West Kent cold store site, they may wish to contact me."

Councillor Watson told The Standards Board for England's investigator that he was concerned about the implications of a planning application in Dunton Green for Riverhead residents, and wrote the article in his political group's local newsletter, to let residents know that he could deal with any of their problems while the complainant was on maternity leave. Councillor Watson claimed that he believed that the complainant was taking at least six months' leave of absence from her Council duties, and not just from attending evening meetings.

In relation to Paragraphs 2(a) and 2(b) of the Code of Conduct, the Ethical Standards Officer considered whether Councillor Watson was acting in an official capacity when the comments were made. This is because, apart from Paragraphs 4 and 5(a), the Code of Conduct only applies when a member is acting in an official capacity. The Ethical Standards Officer considered that Councillor Watson published his comments in the political group's local newspaper that included articles on Councillors' achievements and policies. The Ethical Standards Officer concluded that Councillor Watson was acting in an official capacity when he published his comments.

Paragraph 2(a) of the Code of Conduct states that a member must "promote equality by not discriminating unlawfully against any person". Section 1(1)(a) of the *Sex Discrimination Act 1975* (as amended) states that a person discriminates against a woman if, "on the ground of her sex he treats her less favourably than he treats or would treat a man". However, the Act only makes sexual discrimination unlawful in

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the context of employment, education, the provision of goods, facilities and services, and the disposal or management of premises. The Ethical Standards Officer found that Councillor Watson's comments did not relate to any of these categories, so he did not unlawfully discriminate against the complainant.

In these circumstances, the Ethical Standards Officer found no evidence of any failure to comply with Paragraph 2(a) of the Code of Conduct under Section 59(4)(a) of the *Local Government Act 2000*.

The Ethical Standards Officer concluded that Councillor Watson failed to treat the complainant with respect, in breach of Paragraph 2(b) of the Code of Conduct, by failing to consult her before publishing his comments in the political newsletter, and by implying that she was unable to perform Council duties because she had recently given birth to a baby.

The Ethical Standards Officer also found that Councillor Watson improperly used his position to secure an electoral advantage for himself, in breach of Paragraph 5(a) of the Code of Conduct, by promoting his name and his availability to constituents while the complainant, the member from the neighbouring ward, was on maternity leave.

The Ethical Standards Officer considered whether Councillor Watson conducted himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute. The Ethical Standards Officer considered that Councillor Watson failed to follow normal arrangement for discussing issues with the complainant, attempted to politically exploit the issue of her maternity leave, published inaccurate information about her availability, and implied that she was unable to do her job because of the recent birth of her son. The Ethical Standards Officer also considered that Councillor Watson failed to comply with the Council's Corporate Equality Policy by stating that the complainant was "unable to assist local residents" following the birth of her son. The Ethical Standards Officer concluded that Councillor Watson's conduct could reasonably be regarded as bringing his office or authority into disrepute, in breach of Paragraph 4 of the Code of Conduct.

In these circumstances, the Ethical Standards Officer would have referred the matter to the authority's Monitoring Officer for determination at local level under Section 59(4)(c) of the *Local Government Act 2000*. This was not possible in the absence of regulations setting out the framework for determination by local authorities under Section 66(1) of the *Local Government Act 2000*. Therefore the Ethical Standards Officer found no action needs to be taken under Section 59(4)(b) of the *Local Government Act 2000*.