



MINUTES

STANDARDS COMMITTEE

TUESDAY, 20 DECEMBER 2005

COMMITTEE MEMBERS PRESENT

Mr C Holtom
Mr F Mann
Councillor Reg Lovelock M.B.E.
Councillor John Wilks
Councillor P Dolby
Councillor M Exton
Councillor T Holmes
Councillor R Rose

Chairman
Vice-Chairman
South Kesteven District Council
South Kesteven District Council
Braceborough & Wilsthorpe Parish Council
Stamford Town Council
Bourne Town Council
Thurlby Parish Council

OFFICERS

Corporate Manager Democratic & Legal Services (Monitoring Officer)
Solicitor to the Council (Deputy Monitoring Officer)
Member Services Manager (Second Deputy Monitoring Officer)
Committee Support Officer

16. MEMBERSHIP

Councillor Trevor Holmes was appointed parish representative for minute no. 19 and Councillor Peter Dolby for minute no. 20.

17. APOLOGIES

Apologies for absence had been received from Councillor Mike Williams.

18. DECLARATIONS OF INTEREST

Councillor Trevor Holmes declared a personal interest in minute no. 20. He therefore stood down from the panel for this item.

19. INVESTIGATION UNDER S.66 OF THE LOCAL GOVERNMENT ACT 2000 INTO AN ALLEGATION CONCERNING COUNCILLOR LINDA NEAL AND COUNCILLOR TERL BRYANT - MEMBERS OF SOUTH KESTEVEN DISTRICT COUNCIL

Decision:

This is a difficult area in respect of the Guidance given from the Standards Board for England. We believe that all parties, including the complainant, acted in good faith. Most importantly, the Monitoring Officer

gave appropriate advice to the members at the time. The events concluded in December 2004. Final clarification on the Guidance was received by the Monitoring Officer in March 2005. We are content that the advice he has now given to members and parish councils concerning dual-hatted members is correct and appropriate. There has been no breach of the Code of Conduct.

The Chairman introduced the investigation, the members of the panel and the officers present. He asked members to disclose any interests in the matter; none was declared. He confirmed that the quorum for a hearing was present and explained the procedure to follow. He reminded the Panel that the investigation was confined to matters relating to the Code of Conduct and the alleged breach. The Member Services Manager advised that the confidential reports relating to the investigation were now in the public domain.

The Deputy Monitoring Officer explained that this investigation had been referred for local determination under Section 66 of the Local Government Act 2000 and she had been appointed Investigator because the Monitoring Officer had provided advice to the two members under investigation.

The Investigator presented her report. She detailed the allegation, the relevant section of the Code of Conduct, the evidence obtained and her conclusions. Exhibits had been circulated. The allegation was that Councillors Neal and Bryant may have had a conflict of interest when dealing with matters concerning the South Kesteven Citizens' Advice Bureau (SKCAB). The Investigator's finding was that there had been no breach of the Code of Conduct.

The Panel was invited to ask questions of the Investigator. Further clarification was sought on the status of the members as trustees of the SKCAB. The Investigator confirmed that whilst there had been some initial confusion on the part of one member, the SKCAB had confirmed at their first meeting with the members that they were not trustees. This was supported in writing in the exhibits. The Investigator was asked about the accuracy of press coverage of the members' status and she acknowledged that the public, including the complainant, had not been in full knowledge of the facts of the situation.

Councillors Neal and Bryant were not present to respond.

The Monitoring Officer was called by the Investigator to give evidence. He was invited to explain to the Panel the advice he had provided to the two members on declaring an interest for matters relating to the SKCAB. This advice on compliance with the Code had been sought and acted upon by the two members. The Monitoring Officer explained in detail the background to the Council's approach to declaring interests when members were appointed as representatives on outside bodies. Prior to guidance on dual-hatted members published by the Standards Board, under rule 10(2) of the Code, if a member was appointed to body and a related matter was being discussed, providing that member was speaking at a Council meeting, they had to make it clear that they were the appointed representative; they were then fully able to speak and

vote and this was taken to be the equivalent of the declaration of a personal interest. This approach had been developed because it was found to be very useful for the Council as it was able to gain knowledge about that body and thereby come to an informed decision. A member on an outside body could not have had a prejudicial interest because they had been appointed to that body and could speak about that body from the council perspective. This was the advice provided to the two members.

It was estimated that the published guidance from the Standards Board for England was received in early November 2004. The Monitoring Officer considered that the guidance was clear in that if the Council is making a decision affecting the finances of an outside body, the member has a prejudicial interest. This, however, in his view was covering those members that have a controlling interest within the outside body, that is, a position of control: trustee, director, or member of the management committee. The Monitoring Officer considered that in those situations, members had the power to control that outside body. If a member was appointed in that capacity, they were bound by the rules of that organisation. There was a difference between that and a member who was only a representative on that outside body. In those circumstances, a member that was a mere representative would not be in a prejudicial position because they did not have power within that outside body.

Timing of the publication of the Standards Board's guidance was very important in this investigation. The Standards Committee, as per its normal practice, had considered the guidance at its meeting on 26th November 2004. Other Councillors were informed of the guidance in January 2005, following the conclusions of the Committee. The advice provided to the two members had been given prior to this. Only some time after these events had the Standards Board confirmed to the Monitoring Officer that the guidance related to members who were only representatives on outside bodies, irrespective of whether or not they had a power of control in relation to that outside body.

The Panel was invited to ask questions of the Monitoring Officer. Clarification on certain facts was sought and the Panel confirmed that it had sufficient evidence to determine the investigation.

The press, public, investigator and witness left the room. Considering the facts presented to them, the Panel concluded that there had been no breach of the Code of Conduct.

The press, public, investigator and witness returned to the meeting and were informed of the Panel's decision, as noted above.

20. INVESTIGATION UNDER S.66 OF THE LOCAL GOVERNMENT ACT 2000 INTO AN ALLEGATION CONCERNING COUNCILLOR GUY CUDMORE A MEMBER OF THE BOURNE TOWN COUNCIL

Decision:

(1) Matters regarding planning can be contentious and lead to strong

feelings. In this case, Councillor Cudmore took a very prominent role on behalf of the people of Bourne and displayed robust opposition for a proposal which was also roundly rejected by both the Town Council and the people of Bourne. However, his article on a public website did breach the Code of Conduct in that the words used were directly disrespectful to an officer of South Kesteven District Council in terms of inappropriate language, which in the judgement of the Standards Committee, would lead the public to question the impartiality and integrity of that officer. In our judgement, to accuse South Kesteven District Council Planning and Economic Regeneration Directorate of “treachery” in a public forum is to bring both South Kesteven District Council and Bourne Town Council into disrepute.

(2) The issue in this case is the use of words in a public forum by a Councillor who has signed the Code of Conduct. The Standards Committee recognises that Councillor Cudmore accepts that in retrospect his comments were over the top in terms of the precise use of words. We also want to make it very clear that the right of a Councillor to express the views of his Council and those he represents must not be constrained by rules and regulations – it is a matter of balance.

We apply the sanction of censure to Councillor Cudmore and offer him two pieces of advice:

- He may wish to apologise to those concerned.**
- He may feel it useful to arrange to see the Chairman or Vice-Chairman and Monitoring Officer to talk through the implications of the Code of Conduct informally.**

We are grateful for the open way Councillor Cudmore explained his actions today and that he accepts that in hindsight the language he used in the article may not have been best judged.

On a wider note, this committee is very well aware of the lack of understanding of the full implications of the Code of Conduct at Parish Council and Town Council level and the degree of strong feelings which surround planning issues and declarations of interest. However, it is the position of the Committee that the Code is a major contribution to transparency and accountability in those contentious matters, if used properly.

The Committee sympathises that this may have been a “sledge hammer to crack a nut” but we are in the early days of the Code and there are important messages to be conveyed with the intention of raising public confidence in local government.

The Chairman introduced the investigation, the members of the panel and the officers present. He asked members to disclose any interests in the matter; during the course of the meeting, Councillor Wilks, who might have been a

member of the Development Control Committee at the time the incidents relating to the investigation occurred, declared that he may have a personal interest. The Deputy Monitoring Officer advised that he would not have a prejudicial interest. The Chairman confirmed that the quorum for a hearing was present and reminded members on the procedure to follow. The Investigator and Councillor Cudmore were asked if there was any reason that they required the press and public to be excluded from the meeting. Both confirmed that they did not require the press or public to be excluded.

The Monitoring Officer explained that this investigation had been referred for local determination under Section 66 of the Local Government Act 2000 and he had been appointed Investigator. He then presented his report. He detailed the allegation, the relevant section of the Code of Conduct, the evidence obtained and his conclusions. Exhibits had been circulated. The allegation was that Councillor Cudmore had brought Bourne Town Council into disrepute and had treated with disrespect, an officer of South Kesteven District Council by the writing of an article posted on a local Internet forum. The article was included in the exhibits. The Investigator had concluded that there was a potential breach of rules 2(b) and 4 of the Code of Conduct.

In presenting his report, the Investigator asked that it be recorded that Councillor Cudmore had been unable to attend an interview with him due to an illness and the Investigator was satisfied that this had been genuine reason for not attending. The decision of the Planning Inquiry – the subject of Councillor Cudmore's article – had only recently been made by the Planning Inspectorate.

Councillor Cudmore was invited to ask the Investigator questions on matters of fact presented in his report. A spelling mistake which altered the meaning of the sentence at paragraph 6.6 was indicated by the Councillor. He then drew on a recent national case concerning the Mayor of London, suggesting that for himself in this investigation, the Code of Conduct did not apply because he had been acting as a private individual. He stated that there was no evidence that Bourne Town Council had been brought into disrepute and there was therefore no case against him.

The Chairman asked Councillor Cudmore if he was satisfied that the facts presented in the Investigator's report were accurate. He replied that he had no particular dispute about the facts. The panel asked Councillor Cudmore to confirm whether or not he had asked the district council before publication of the article about the facts of the public enquiry. He replied that the question was irrelevant because he was acting in his private capacity. He was asked if the officer mentioned in his article had been present at the Planning Inquiry. He replied that this was also irrelevant because he was the head of the department and therefore responsible.

Councillor Cudmore insisted that his language reflected the facts as presented to the Public Inquiry and he confirmed that in the article, he presented himself in his private capacity.

The panel asked Councillor Cudmore on specific use of his language in the

article. Councillor Cudmore did not agree that the words were inappropriate, inaccurate or disrespectful. He stated that when using the forum, he had only criticised the actions and policies of the Council, not an individual. He had not questioned the manner in which an officer has implemented a policy. The people who used the forum were informed of the facts of the Public Inquiry and it could not be construed from the article that the Inquiry had not been independent. The Councillor was asked specifically about the phrase: "...the treachery of SKDC...", It was suggested to him that it could easily be interpreted by a member of the public that the integrity of SKDC was being challenged. Councillor Cudmore stated that he had never questioned the professional integrity or expertise of SKDC officers and that nothing he had contributed on the forum could be interpreted in that way.

Councillor Cudmore, upon further questioning, confirmed that he had been a councillor for about five years and that few local people were unaware that he was an elected member. He was sure, however, that it was well known that his articles on the Internet forum were written in his private capacity. The intention in writing the article had been straight reporting in response to a query on the forum.

Councillor Cudmore called Councillor Trevor Holmes, another member of Bourne Town Council, as a witness. Councillor Holmes explained to the panel that some months prior to this article appearing on the website, Councillor Cudmore had on the same website, published an article which he considered to be objectionable in relation to comments about Jehovah's witnesses. Advice was sought from the Monitoring Officer, who had advised that the fact that the article had appeared as written by "Guy Cudmore", it was not possible to refer the author to the Standards Board.

The panel asked the Monitoring Officer to comment. He confirmed that the case concerning the Mayor of London did confirm that there are certain circumstances when a councillor can act in a private capacity in the previous situation relating to Councillor Cudmore, the situation was border line, but in the article relating to this investigation, it was clear that Bourne Town Council, and Councillor Cudmore as a member of that body, was involved in the subject of the article. He reserved the right to give further clarification later in the meeting.

There were no questions put to the witness.

Councillor Cudmore continued his case. He stated that the Code of Conduct did not impinge his freedom of speech and that the complaint should have used other methods to bring his objection to light as he considered this investigation a "sledge hammer to crack a nut." He then suggested that his wording may not have been appropriate and that it could have been dealt with in an informal manner.

Two emails had been received from members of the public concerning the investigation. These were circulated and noted. Councillor Cudmore was asked to clarify certain points raised in these emails and he responded accordingly.

The Monitoring Officer then explained in further detail the issues concerning a member's private life. He acknowledged it to be a difficult area. In his opinion, the subject of the article under investigation was a genuine matter of business for Bourne Town Council. The Town Council had made a formal submission and were represented at the Inquiry, to which the article relates. This was therefore distinct from private business. Furthermore, in terms of planning matters, the law now states that there are very few instances in which a member can act in a private capacity in relation to a planning matter.

In response, Councillor Cudmore suggested that this was not clear enough in the Code. He was aware of constraints when dealing with planning matters but not those suggested by the Monitoring Officer. He suggested that there be wider communication of the implications of the Code.

There were no further comments and the panel was satisfied that they had sufficient information to determine the investigation.

The press, public, investigator, witness and Councillor left the room. Considering the facts presented to them, the relevant sections of the code of conduct and Councillor Cudmore's comments, the Panel concluded that there had been a breach of rules 2(b) and 4 of the Code of Conduct.

The press, public, investigator, witness and Councillor returned to the meeting and were informed of the Panel's decision, as noted above.

21. CLOSE OF MEETING

The meeting closed at 2.15p.m.