

ANNEX

SUMMARIES OF RECENT STANDARDS BOARD FOR ENGLAND INVESTIGATIONS

The summaries can be found on the Standards Board for England's website at www.standardsboard.gov.uk under Case Information.

SBE22177.08 Dersingham Parish Council

The allegation was that the member failed to treat others with respect and brought their office or authority into disrepute.

The member had previously been found to be in breach of the Code of Conduct by his local standards committee following an allegation that he had called a member of a different local authority "a lying cow" at a parish council meeting. The standards committee had required the member to apologise to the other member in writing and submit that apology to the panel for approval within 28 days of receiving their decision.

The complaint was that the member had neither appealed the standards committee decision nor given the required apology. The member had corresponded at length with the district council's Monitoring Officer about composing an apology and on what the implications of making such an apology might be. The member was concerned that submitting an apology, even under duress, might prejudice the complaint he was considering making about the other councillor and the conduct which led to him calling her 'a lying cow'. The member also sought advice from the Standards Board for England who suggested he take independent legal advice.

The ethical standards officer considered that to operate effectively and to retain public confidence in the maintenance of high ethical standards in local government, members must either accept a standards committee's finding and comply with its sanction, or exercise their statutory right of appeal against it. It was the ethical standards officer's view that by failing to comply with the sanction, he was disrespectful to the members of the standards committee involved and had breached the Code of Conduct.

The ethical standards officer also considered that Councillor Houston had given the impression that he treated the procedure with indifference, or even contempt, and that this conduct adversely affected his reputation by implying that he did not have a proper respect and regard for the standards committee's jurisdiction. Therefore she considered that he had brought his office into disrepute by failing to comply with the sanction.

In coming to her finding, the ethical standards officer took into account the time that had elapsed between the incident and the allegation. Her opinion was that, were the member to write an apology to the other member at this stage, it would have little value and would be unlikely to be accepted as

sincere or regretful by the other councillor. With this in mind, the ethical standards officer found that no further action needs to be taken

Commentary

This case makes it clear that a member who is found to have breached the Code of Conduct and who is required by a standards committee to give an apology only has two choices, they can either give the apology or appeal the decision to the Adjudication Panel for England. If they do neither they are vulnerable to a further complaint and a finding of failing to treat others with respect and of bringing their office into disrepute. The practical option for a standards committee which wishes to require a subject member to do something positive as part of a sanction, such as to apologise or undertake training or conciliation, is to impose a period of suspension or partial suspension until such time as the subject member has provided an apology or undertaken training or conciliation.

SBE 01681-54KBF Gosport Borough Council

The allegation was that the member had brought their office or authority into disrepute.

The complaint was that the member, while acting as the chairman of the Council's Licensing Sub-Board, behaved in a manner that showed prejudice towards an application the Complainant had submitted on behalf of a local football club. The complainant also alleged that the member behaved inappropriately towards him and his legal representative during the meeting.

The complainant said that when he refused consent for video evidence to be shown at the hearing the member said "You don't want us to see a video that may be detrimental" inferring that the football club had something to hide. The complainant said that his sense of unfairness at the proceedings was added to by the fact that the member did not treat both sides to the hearing equally, often smiling at other councillors, while behaving very aggressively towards his legal representative. The complainant said that, at the end of the hearing, when the member read out the decision of the sub-board he did so in a 'triumphant' manner, attaching a number of bizarre conditions to the license the sub-board were granting.

The complainant appealed to the Magistrates Court. The Magistrates were critical of the decision reached by the sub-board and of the member's behaviour at the hearing.

The member said that he remained calm and collected throughout the hearing and had dealt with everyone in a fair manner. He said that he did make the comment about the video but only after it had been put to him by a member of the public.

After looking at the evidence of the member's conduct at the meeting, the ethical standards officer was satisfied that the member responded to the complainant's representative in a hostile manner and one which left none of those interviewed in any doubt as to his feelings towards him. Such conduct, in the ethical standards officers view, created the impression that the member favoured one party over another. This impression was compounded by Councillor Smith's behaviour in respect of the admissibility of the video evidence, which, in the ethical standards officer's view, should have been dealt with quickly and in a manner that did not raise questions about the conduct of the hearing as a whole.

The ethical standards officer noted that the misconduct took place when the member was fulfilling his role as the chair of a committee. He was expected to be fair and even handed. He was not entitled to show any frustration with the legal process or to have given any indication that the hearing would be heard in anything but a fair and proper manner. The ethical standards officer concluded that the member's behaviour had brought his office into disrepute.

However, the ethical standards officer also noted that the member was not the permanent chairman of the sub board and was not used to the way in which legal representatives present their client's case. She noted the frustration of someone who may not have understood the legal process and may have thought that there was useful evidence in the video that could not be disclosed. The ethical standards officer also took into account the member's remorse and his acknowledgement that lessons had been learnt and his assurance that such a situation would not occur again. In these circumstances, the ethical standards officer found that no action needed to be taken.

The ethical standards officer provided a copy of her full report to the standards committee of Gosport Borough Council to assist it in its work to instil and promote the need for high ethical standards among members.

Commentary

This was a case where the complainant had the opportunity to appeal the decision of the Licensing Sub-Panel to the Magistrates' Court and did so. This did not prevent a standards complaint being made against the member in relation to some of the matters which would have already been considered by the court. Similar issues may arise whenever members are in a context where they are dealing with applications for permissions, licences or consents, such as when determining planning or licensing applications.