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Case Summary - Fenland District Council

Case no. SBE-09067-ZVAMH SBE-09068-JTZJN, SBE-09069-XGFY2, SBE-09070-28511, SBE-09071-4KF5Q, SBE-09072-V07IQ

Member(s): Councillor Steve Garratt

Date received: 09 Feb 2009

Date completed: 24 May 2010

Allegation:

That the member disclosed confidential information

Standards Board outcome:

The ethical standards officer found that the member did not breach the Code of Conduct

Case Summary

It was alleged that Councillor Steve Garratt disclosed confidential information to Councillor Fred Yeulett when he passed him an email he had received from Councillor Alan Melton which had been marked 'Strictly Confidential'.

The Ethical Standards Officer found that on 20 November 2009 Councillor Melton sent an email to some of his colleagues within the Conservative group and party that expressed his concern about the Council's failure to progress plans for a leisure centre in Chatteris. Councillor Melton marked his email 'Strictly Confidential'

Councillor Garratt received Councillor Melton's email on Saturday 21 November 2009. Councillor Garratt was concerned about some of Councillor Melton's comments and telephoned him to discuss the matter. Councillor Garratt then telephoned Councillor Fred Yeulett, the deputy leader of the Council and Conservative group, to get his opinion of Councillor Melton's proposals. Councillor Yeulett had not been on Councillor Melton's circulation list and so Councillor Garratt forwarded him a copy of the email.

In reaching a decision on this matter the Ethical Standards Officer did not believe that the email's reference to council business settled the issue of whether Councillor Garratt was acting in his capacity as a councillor when he forwarded it. The audience for this email was members of the local Conservative group, some of whom were not councillors. Although the email like many involving local politics touched on matters that the council had considered, its primary purpose and content was political. The Ethical Standards Officer had no doubt that Councillor Garratt's act of passing the email to a senior political colleague was essentially a party political matter.

The Ethical Standards Officer was satisfied that in passing the email to Councillor Yeulett, Councillor Garratt was not acting in his official capacity as a councillor and therefore did not fail to comply with the Code.

Relevant paragraphs of the Code of Conduct

Paragraph 4

"4(d) You must not—

(i) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(1) you have the consent of a person authorised to give it;

(2) you are required by law to do so;

(3) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(4) the disclosure is—

(a) reasonable and in the public interest; and

(b) made in good faith and in compliance with the reasonable requirements of the authority"

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APPENDIX 1 (ii)

Case Summary - South Tyneside Council

Case no. SBE-08422-HUOVO
 Member(s): Councillor Gordon Finch
 Date received: 16 Dec 2009
 Date completed: 11 May 2010

Allegation:

That Councillor Finch had failed to show respect to another member and that he brought his office and/or his authority into disrepute

Standards Board outcome:

Local investigation outcome:

The ethical standards officer found that the member did not breach the Code of Conduct .

Case Summary

The complaint was about a newsletter distributed by Councillor Finch in his ward. It was alleged that the newsletter had wrongly alleged that a member, had fiddled expenses, made racist insults at a public meeting, and with others had "howled and shrieked" at another member. The complainant argued that in distributing the newsletter Councillor Finch had been disrespectful to the member against whom these allegations were made.

The ethical standards officer noted that the article on councillors fiddling expenses did not identify any particular member but rather argued that this was the sort of matter that the local standards committee ought to investigate. In those circumstances the ethical standards officer considered that no disrespect to the particular member was demonstrated.

Similarly in relation to the allegation of racism, the ethical standards officer noted that the member was not identified individually and, in any event, did not consider that the repetition of an allegation which was already in the public domain and which Councillor Finch honestly thought to be justified was disrespectful. Likewise, the ethical standards officer did not consider it to be disrespectful to advertise the web site of a television channel which carried an interview with the councillor who claimed to have been the subject of a racist remark.

It was also not possible to identify any particular councillor by name in relation to comments about the howling and shrieking comment. There was no disagreement that the meeting in question had been abandoned amid scenes of chaos. There was no evidence of disrespect by Councillor Finch in distributing a newsletter which put forward a particular view as to which party or group had been responsible.

So far as the allegation that Councillor Finch had brought either his office or the council into disrepute, the Ethical Standards Officer considered that while some of the matters reported in the newsletter might have lowered the reputation of the Council in the eyes of the public, reporting on those matters, albeit with a political slant and distributing the newsletter could not be regarded as disreputable conduct within the meaning of the Code.

Relevant paragraphs of the Code of Conduct

3(1), 5

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APPENDIX 1 (iii)

Case Summary - Cornwall Council

Case no. SBE-09441-09457
 Member(s): Councillor Graeme Hicks
 Date received: 09 Mar 2010
 Date completed: 09 Jun 2010

Allegation:

Allegation of disrespect:

The ethical standards officer found that the member failed to comply with the Code of Conduct, but in the circumstances of the case, no further action needed to be taken.

Allegation of disrepute:

the ethical standards officer found that there had been no failure to comply with the Code of Conduct

Standards Board outcome:

Case Summary

The complainants alleged that Councillor Hicks made an abusive and disreputable personal attack on individual members of the public and on local people generally.

In January 2010 a local newspaper published a letter from Councillor Hicks criticising a campaign against a proposed harbour development. The campaign was by a local residents' group known as the Friends of Penzance Harbour (the Friends). Councillor Hicks signed the letter as an executive member of his council. The complainants highlight as particularly offensive Councillor Hicks' remarks that the Friends spokesman and a local journalist had made claims about the harbour issue that "reminded [him] of the extraordinary claims made by Soviet and Nazi propagandists" or "in the tradition of the infamous Dr Joseph Goebbels" [sic]. The complainants also highlight Councillor Hicks' description of the group's spokesman 'and his friends' as "a discredited and utterly despicable mob".

Councillor Hicks said that he wrote his letter as part of an ongoing public debate. He believed some of the Friends' campaign tactics were misleading or intimidating. He was not suggesting the group's spokesman or the journalist were Nazis, or suggesting that every Friends member or local objector was part of a 'despicable mob'. His remarks were about those protesters who in his view had gone beyond legitimate democratic protest. He apologised if any ordinary protester had been offended by his letter. He further apologised if anyone whose family had suffered at Nazi hands had been upset by his letter. Councillor Hicks said that when he wrote his letter he had been distressed by anonymous internet attacks on his personal integrity and rumours of death threats against his family.

The ethical standards officer noted that there is no evidence that the Friends' campaign was conducted other than peacefully and within the law. There is no evidence that Friends members had abused Councillor Hicks or made threats to him or anyone else. Councillor Hicks did face personal abuse from other sources, and some local people had expressed strongly negative views about Friends' campaign tactics both in the press and to Councillor Hicks directly.

The ethical standards officer considered that while Councillor Hicks' remarks about Soviet and Nazi propagandists were not tasteful or proportionate, he was not suggesting that any individual was personally similar to a Nazi. Councillor Hicks made his 'despicable mob' remark after press coverage of claims and counter claims about the Friends campaign, and in this context the remark would be understood by someone reading the letter to be a personal attack on Friends members and not on all objectors.

The ethical standards officer considered the description of the Friends members as 'a despicable mob' to be a personal attack on the character of Friends members. He drew a distinction between a robust attack on a person's ideas and actions, and an attack on a person's character. He did not consider that the high level of protection that is given to freedom of political expression under Article 10 of the European Convention on Human Rights should apply to Councillor Hicks' personal attack on character. He concluded that in describing the Friends group as a "despicable mob" Councillor Hicks made an unreasonable and excessive personal attack and so failed to treat others with respect. Councillor Hicks therefore failed to comply with paragraph 3(1) of the code of conduct.

The ethical standards officer noted the context of a fiercely argued public debate about the Friends' campaign and that Councillor Hicks was not making a personal attack on every objector. While some members of the public might hold Councillor Hicks' personally in lower esteem as a result of his remarks, Councillor Hicks' conduct was not on balance capable of damaging the reputation of the office of councillor or of his authority. Councillor Hicks did not therefore fail to comply with paragraph 5 of the code of conduct.

In reaching a finding, the ethical standards officer took account of the following:

Councillor Hicks holds a senior position on the authority and has a responsibility to lead by example on ethical standards

The Friends group had an established public platform from which to campaign and to effectively respond to criticism

Councillor Hicks was acting in what he saw as the public interest, and not for any private gain.

Councillor Hicks had been distressed by personal attacks on his integrity and by rumours of threats against his

family

Councillor Hicks gave an apology to the wider public for any offence he had caused

Councillor Hicks has not repeated the conduct

This was the first occasion on which Councillor Hicks had failed to comply with the code of conduct in nine years of service as a councillor

The ethical standards officer found that no action needed to be taken

Relevant paragraphs of the Code of Conduct

3(1), 5

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