

# Ethical Standards Bulletin

Winter 2006/7 Edition

Shropshire and Wrekin Fire Authority  
Standards Committee  
16 April 2007

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**Welcome to the new look Ethical Standards Bulletin. It is hoped that this format will be able to better inform those interested in Ethical Standards matters.**

This Bulletin is produced for Councillors from the Borough of Telford & Wrekin, Councillors from the Parish and Town Councils in the Borough and Members of the Shropshire and Wrekin Fire Authority.

Information about Ethical Standards is readily available on the Internet on the following sites:

- Standards Board for England [www.standardsboard.co.uk](http://www.standardsboard.co.uk)
- Adjudication Panel for England [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk)
- Committee on Standards in Public Life [www.public-standards.gov.uk](http://www.public-standards.gov.uk)

## Future Meetings

**Borough of Telford & Wrekin Standards and Audit Committee**

Reception Suite, Civic Offices

starting at 6.00 pm

Wednesday 24<sup>th</sup> January 2007

Thursday 29<sup>th</sup> March 2007

**Shropshire and Wrekin Fire Authority Standards Committee**

Brigade Headquarters, Shrewsbury

starting at 5.15 pm

Monday 22<sup>nd</sup> January 2007 &

Monday 16<sup>th</sup> April 2007

Monday 23<sup>rd</sup> July 2007

(Time to be advised)

# Standards News & Issues

## Case Review

Each year, the Standards Board for England publishes 'The Case Review', through which the Board shares its experience of conducting investigations, giving legal advice and developing Policy in relation to the Code of Conduct. The Case Review is aimed at Monitoring Officers, Members, Standards Committees and anyone interested in Ethical Standards. The Case Review is at

[www.standardsboard.co.uk/Casestudies/TheCaseReview/](http://www.standardsboard.co.uk/Casestudies/TheCaseReview/)

## New Members

On 24<sup>th</sup> October 2006, the Minister for Local Government, Phil Woolas appointed four new Members to the Standards Board for England. They are Shirley Flint (Member of North Kesteven District Council, Lincolnshire); Beatrice Fraenkel (Liverpool City Council); Mehboob Khan (Kirkless MBC) and Sir Ron Watson CBE (Sefton MBC)

## Figures for 2005-2006

The Standards Board for England has recently released figures which show a marked fall in the number of allegations received in the year to 30<sup>th</sup> September 2006. The majority of allegations are made by members of the public and in most cases there is no evidence of breach found or no further action is ordered. The most common allegation concerns prejudicial interests, closely followed by bringing the authority into disrepute.

# Standards News & Issues

## Future for Standards Board

Recent comment in the Local Government press has examined the future of the Standards Board in light of the forthcoming Local Government White Paper. This proposes the devolution of the majority of conduct issues to a local level with the Standards Board taking on a role as a 'light touch' strategic regulator. The White Paper also promises a clearer and more proportionate Code of Conduct. Future developments will be reported in the Bulletin.

## It's your Bulletin

If there are any issues you would like us to cover in future issues of this Bulletin, please contact

[tim.stedeford@tel ford.gov.uk](mailto:tim.stedeford@tel ford.gov.uk)

## Fire Authority Dates for your Diary

Looking ahead, the Standards Committee for the Fire Authority is

due to meet on 29<sup>th</sup> October 2007, 18<sup>th</sup> February 2008, 16<sup>th</sup> June 2008 and 13<sup>th</sup> October 2008. All meetings will take place at Brigade Headquarters in Shrewsbury and will start between 5.00pm – 5.30pm. Exact times will be confirmed in due course.

# Adjudication Panel Decisions

For detailed transcripts of Adjudication Panel Hearings visit the Adjudication Panel website at [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk)

The Ethical Standards Bulletin will try to provide details of cases that set important legal precedents in interpreting the Code of Conduct but will also highlight cases which provide a helpful clarification of existing case law.

## **Aggressive and disruptive behaviour leads to 12 month disqualification**

This case concerns a former Councillor disqualified for inappropriate and disruptive conduct.

It deals with issues of:

- (i) Disrespect,
- (ii) Bringing office into disrepute.

Former Councillor Christopher Jarvis of Kingston upon Hull City Council has been disqualified from office for a second time by a tribunal of the independent Adjudication Panel for England. Mr Jarvis was disqualified for 12 months following a decision that he had repeatedly broken the Code of Conduct by being aggressively disruptive.

The ban follows an investigation by the Standards Board for England which looked into complaints that Mr Jarvis had failed to treat others with respect and brought his office into disrepute by acting in an 'aggressive', 'vindictive' and 'abusive' manner on four separate occasions. The Ethical Standards Officer referred the case to the Adjudication Panel who considered that Mr Jarvis had conducted himself in an unacceptable and confrontational manner by disrupting council meetings and engaging in public arguments with Council officers. Other members had previously warned Mr Jarvis about his behaviour.

The Adjudication Panel found that Mr Jarvis' behaviour had damaged the reputation of the Council and diminished the public's confidence in the Authority and decided that a period of disqualification was appropriate.

# High Court Decision concerning Mayor of London

Following the High Court decision in the Ken Livingstone case, a more restrictive view needs to be taken as to when the Code of Conduct can apply to the actions of a Member.

There are two provisions in the Code that apply not just when a member is acting "*in his official capacity*" but also "*in any other circumstances*." These are Paragraphs 4 (bringing your office or authority into disrepute) and 5(a) (improperly using your position to secure or confer an advantage or disadvantage).

The Judge, Mr Justice Collins, found that "*any other circumstances*" is limited to situations where the member is "performing his functions." He added that the words "*performing his functions*" extend to actions beyond those carried out in a Member's "official capacity."

He also found that as a consequence of the Human Rights Act, the Code could not interfere with Members who express themselves forcibly using language that is inappropriate, intemperate or offensive so long as it is in their private life.

In relation to establishing disrepute, Mr Justice Collins stated that there was a "*real distinction between the man and the office*" and expressed the view that private capacity conduct will rarely be capable of bringing a Member's office or Authority into disrepute even if considered inappropriate, outrageous or unlawful. He found that while Ken Livingstone's comments may have tarnished his own reputation, they did not tarnish the reputation of his office or authority.

In the light of the judgment, the Government has included proposals in the current Local Government and Public Involvement in Health Bill to make it clear that the Code of Conduct is not limited to actions taken only in an official capacity and to delete the words "in performing his functions"

# High Court Decision concerning Mayor of London

The Standards Board for England is, therefore, issuing guidance to set out the position as the Board currently understands it. However, it should be noted that while some aspects of the decision are very clear, others are not. Therefore each case is likely to turn on its own facts.

The following principles emerge from the decision about cases where a Member is not acting in an official capacity:

For the Code to apply, it will need to be established that, if the Member was not acting in an official capacity, he or she had nonetheless used or sought to use his or her “status” as a Member of the Council. An example may be where a Councillor, in dispute with a neighbour about their planning application, threatens to speak to colleagues on the Planning Committee. This relates to the wording in section 52 of the Local Government Act 2000, i.e. the “performing his functions” test (commonly known as the “using one’s position” test).

The second principle is that the use of the status must be of a type that is capable of amounting to a failure to comply with the Code. An example would be where a Councillor attended a private pre-meeting to discuss a report, which included a proposal to purchase some land for the Council to redevelop new Council Offices, and then, immediately after the meeting, that Member contacted the owner and anonymously agreed to buy the property for the price quoted to the Council.

The third principle relates to establishing disrepute to his or her office or the Authority. Under this test a case tribunal or standards committee will need to be persuaded that the misconduct is such as to damage the reputation of the Member’s “office or authority” as opposed simply to damaging the reputation of the individual concerned.