

STANDARDS SUB-COMMITTEE

8 November 2005

DETERMINATION OF MATTER REFERRED BY STANDARDS BOARD ETHICAL
STANDARDS OFFICER

WHITELEY PARISH COUNCIL – SKATEPARK ISSUE – COUNCILLOR CHAPMAN

REPORT OF CITY SECRETARY AND SOLICITOR – AS MONITORING OFFICER

Contact Officer: Stephen Whetnall Tel No: 01962 848220 swhetnall@winchester.gov.uk

RECENT REFERENCES:

ST33 – Local Authorities (Code of Conduct) Regulations 2003 – 22 September 2003

EXECUTIVE SUMMARY:

This is a case that has been referred for local determination by the Ethical Standards Officer (ESO) at the Standards Board.

The ESO finding was that, in his view, Councillor Chapman failed to declare a personal and prejudicial interest in relation to a property in which she had an interest (Appendix 2 refers). This was at a meeting of Whiteley Parish Council on 30 September 2004, of which she was then a member, when a proposed skatepark was discussed adjacent to the Meadowside Centre. This was said to be contrary to paragraph's 8 and 10(a) of Whiteley Parish Council's Code of Conduct. The issue relates to the proximity of the proposed skatepark to the residential property at 60 Angelica Way in which Councillor Chapman had an interest.

Councillor Chapman has indicated that she is not disagreeing with the ESO finding and has made written submissions (Appendices 5 and 6) commenting on the context.

Further comments as to why the case has been referred by the ESO for local determination are included in Appendix 8.

RECOMMENDED:

1. That the Sub Committee considers the case and makes any findings that it considers appropriate.
2. That the Sub Committee considers whether any general recommendations should be made to the Standards Committee with a view towards promoting high standards of conduct amongst Members.

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DETAIL:

1 Introduction

- 1.1 An Ethical Standards Officer (ESO) at the Standards Board has the power to refer his findings on a particular complaint to a local standards committee for determination. This applies in less serious cases where the sanctions available to local standards committees are sufficient for the matter. This Sub-Committee has been established with powers to determine the case. More serious cases are referred to the Adjudication Panel for England for determination.
- 1.2 The Council has adopted the guidance issued by the Standards Board for dealing with cases referred for local determination – Standards Committee Determinations – Guidance for Monitoring Officers and Standards Committees. This has been circulated to Members of the Sub-Committee and has been followed as far as possible. The procedure note for the Sub-Committee taken from that Guidance is set out as Appendix 1.

2 Background to the Case

- 2.1 The ESO report, dated 31 August 2005, is attached as Appendix 2. Although this was marked as “confidential” it is now appropriate to make the report available as the matter is coming before a public hearing at the Sub-Committee. The supporting documents (SK1 to SK30) have been made available to Members of the Sub-Committee.
- 2.2 The report relates to an investigation into an allegation made in respect of Councillor Chapman’s conduct, as a former member of Whiteley Parish Council, when it considered its representations to the City Council upon the provision of a skatepark adjacent to the Meadowside Centre.
- 2.3 The complaint was made by Parish Councillor Wright and Ms Hopson.
- 2.4 Complaints were also made in respect of other parish councillors in respect of their involvement in the skatepark issue. None of these have been referred to the local standards committee for determination. The ESO has been asked to comment on the reasons for referral in this case.

2.5 The ESO finding was that, in his view, Councillor Chapman failed to declare a personal and prejudicial interest. The issue relates to the proximity of the proposed skatepark adjacent to the Meadowside Centre to the residential property at 60 Angelica Way, in which Councillor Chapman had an interest. This was said to be contrary to paragraph's 8 and 10(a) of Whiteley Parish Council's Code of Conduct.

2.6 Paragraph 8 of the Code provides:

"Disclosure of Personal Interests

A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent."

2.7 Paragraph 10(a) of the Code provides:

"A member with a prejudicial interest in any matter must –

- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the standards committee of the responsible authority...."

2.8 The full wording of the Code is contained in Document SK1 in the bundle of documents circulated to Members of the Sub-Committee.

2.9 The adopted procedure involves a written exchange of correspondence between the parties before the hearing, to ascertain any points of agreement and any areas where there are differences which may require witnesses to attend. The Monitoring Officer arranges the exchanges of correspondence with the Councillor concerned and the ESO's legal representative. His initial letter of 16 September outlines the procedure and is attached as Appendix 3. This was supplemented by further guidance on the powers of the Sub-Committee to apply any penalties – Appendix 4.

3 Correspondence from Councillor Chapman

3.1 Councillor Chapman's responses are annexed as Appendices 5 and 6. She has indicated that she does not wish to attend the hearing, but instead to rely upon her written submissions. This is an option which is available to her. The Monitoring Officer's response on the procedural point is contained in Appendix 7.

3.2 In her correspondence, Councillor Chapman has indicated that she has no intention of disagreeing with the conclusions in the ESO's report and apologises for the inconvenience caused. She has also indicated that she is willing to undergo further training.

4 Correspondence from the Legal Advisor to the ESO

4.1 The ESO has indicated that he will not be attending the hearing, but that he will be represented by Ms Natalie Birtle, Principal Legal Advisor. Her written submission is attached as Appendix 8. She will be available to answer questions at the hearing.

5 Procedure at the Hearing

- 5.1 The full procedure is set out at Appendix 1. Any procedural points are dealt with first. In view of the fact that the matter has mainly been dealt with by written submissions, the Sub-Committee may wish to consider dealing with the points raised in paragraph 15 and 16 below together and only withdrawing once to make its findings on both matters. There are no apparent disagreements as to fact and no witnesses are being called.
- 5.2 The Sub-Committee then has to consider whether, on the facts, it agrees that Councillor Chapman failed to follow the Code of Conduct – para 18 onwards of the procedure note applies (Appendix 1). The Sub-Committee should withdraw to consider its findings.
- 5.3 If the Sub-Committee agrees with the ESO that there has been a breach of the Code, it has to consider whether any penalty is appropriate – para 26 of the procedure note refers (Appendix 1). The Sub-Committee should withdraw to consider its findings. In considering the possible use of penalties, detailed procedural guidance was given in the letter in Appendix 4. It is also commented upon on behalf of the ESO in Appendix 8. As Councillor Chapman is no longer on the Parish Council, the only formal power is one of censure – though guidance could be given on matters such as training.
- 5.4 Finally, after announcing its decisions above, the Sub-Committee should consider whether it wishes to make any general recommendations to the Standards Committee on issues that have arisen eg training or guidance.

OTHER CONSIDERATIONS:

6 CORPORATE STRATEGY (RELEVANCE TO):

- 6.1 Relevant to the value of constantly improving by learning from experience.

7 RESOURCE IMPLICATIONS:

- 7.1 Work in connection with hearings is undertaken within current internal staffing resources. If a significant number of cases are referred for local investigation and/or determination then additional funding will need to be sought from Cabinet for external assistance. This has not yet been necessary.

BACKGROUND DOCUMENTS:

1. Non-exempt papers on City Secretary and Solicitor's file.
2. Bundle of Documents forming appendix to ESO report – circulated separately to Members of the Sub-Committee.

APPENDICES:

Appendix 1 - Procedure Notes for Hearings – Extract from Standards Board Guidance

Appendix 2 - ESO Report dated 31 August 2005

Appendix 3 - Letter from Monitoring Officer dated 16 September 2005

Appendix 4 - Letter from Monitoring Officer dated 19 September 2005

Appendix 5 - Letter from Councillor Chapman dated 26 September 2005

Appendix 6 - Letter from Councillor Chapman dated 7 October 2005

Appendix 7 - Letter from Monitoring Officer dated 12 October 2005

Appendix 8 - Letter from Standards Board dated 27 October 2005