

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

14 DECEMBER 2006

HIGH COURT DECISION REGARDING THE CODE OF CONDUCT

Responsible Portfolio Holder	Councillor Mrs. C Spencer
Responsible Head of Service	Head of Legal and Democratic Services

1. SUMMARY

- 1.1 To update Members on the recent High Court case of *Ken Livingstone v The Adjudication Panel for England*

2. RECOMMENDATION

- 2.1 That the report be noted.

3. BACKGROUND

- 3.1 The Code of Conduct provides that it shall not, apart from paragraphs 4 and 5(a) have effect in relation to the activities of a member undertaken other than in an official capacity.

- 3.2 Paragraph 4 of the Code provides that:

“A member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.”

- 3.3 In the past this section of the Code has been interpreted as covering circumstances occurring in a councillor’s private life; complaints referred to the Standards Board for England have resulted in councillors being suspended or disqualified from office for conduct entirely in their private life including commission and conviction for criminal offences, on the basis that such conduct has brought the office of councillor or the authority into disrepute.

- 3.4 However, the recent High Court case of *Ken Livingstone v The Adjudication Panel for England* has interpreted this section of the Code differently. A summary of the case is attached to this report as Appendix 1 but in essence the Court decided that a proper interpretation of the enabling legislation in section 52(a) of the Local Government Act 2000 is that where a councillor

does something in an entirely private capacity, where his conduct has nothing to do with his position as a councillor, he will not be covered by the Code and no action can be taken against that councillor under the Code.

3.5 Section 52(1) of the Code provides that:

“A member must not in his official capacity or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage”.

It should be noted that this decision does not affect circumstances where a councillor uses his position as a member improperly to confer on or secure for himself or any other person an advantage or disadvantage, for example saying, “Don’t you know who I am?” in order to secure a favourable table at a restaurant, as in such a situation the councillor would be using his position as a councillor even though not acting “in his official capacity”.

4. FINANCIAL IMPLICATIONS

4.1 None

5. LEGAL IMPLICATIONS

5.1 None

6. CORPORATE OBJECTIVES

6.1 Improvement – Reputation and Performance

7. RISK MANAGEMENT

7.1 No risks are associated with this report.

8. CUSTOMER IMPLICATIONS

8.1 None.

9. OTHER IMPLICATIONS

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	Ethical Governance and Statutory requirements
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	Constitution

Environmental	None
Equalities and Diversity	None

10. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	No
Acting Chief Executive	No
Corporate Director (Services)	No
Assistant Chief Executive	No
Head of Service	N/a
Head of Financial Services	No
Head of Legal & Democratic Services	N/a
Head of Organisational Development & HR	No
Corporate Procurement Team	No

11. APPENDICES

Please list the appendices attached to the report as shown in the example below.

Appendix 1 Summary of the case of Ken Livingstone v The Adjudication Panel for England

12. BACKGROUND PAPERS

12.1 The Code of Conduct

12.2 Report of Mr. Justice Collins in the case of *Ken Livingstone v The Adjudication Panel for England*

CONTACT OFFICER

Name: Claire Felton
E Mail: c.felton@bromsgrove.gov.uk
Tel: (01527) 881429