

Hearing in relation to a possible breach of the Code of Conduct

Standards Board for England ("SBE") Ref: 21159.08

Introduction

SBE reference number:	SBE: 21159.08
Date of report:	22 nd July 2008
Name of Member:	Councillor P Whittaker
Name of Member's representative:	N/A
Relevant authority concerned:	Bromsgrove District Council
Ethical Standards Officer:	Ms H Salisbury
Investigating Officer:	Mrs V Brown
Date of the hearing:	26 th September 2008
Names of Standards Committee members:	
Chairman:	Mrs. N. E. Trigg Mr. S. E. Allard Mr. N. A. Burke Mr. J. Cypher Mr I.A. Hodgetts Councillor S. P. Shannon
Standards Committee Legal Adviser:	Mrs. S. Sellers
Committee Services Officer:	Ms. D. Parker-Jones

Section 1: Preliminary documents

The referral from the ethical standards officer:

On 28th March 2008 the ESO referred an allegation about Councillor Whittaker to the Monitoring Officer for investigation. The allegation was investigated by Mrs. V. Brown, Solicitor, who prepared a report of her findings.

The Investigating Officer's report concerns a possible breach of the Code of Conduct and under paragraph 5(7)(d) of the Regulations the Investigating Officer referred her report to the Standards Committee for a hearing in accordance with the Regulations.

Summary of the Allegation:

That Councillor Whittaker failed to comply with the Council's Code of Conduct in that:-

- (1) following the adoption of the Council's revised Code of Conduct on 18th July 2007 he failed to complete and return his Register of Interests Form in accordance with the requirement to do so within 28 days in breach of Part 3 paragraph 14 of the Code of Conduct.
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Section 2: Oral and written submissions (procedural)

No oral or written submissions were made.

Section 3: Findings of fact

3.1 The following facts in the Investigating Officer's report were undisputed and the standards committee finding of facts are:

The facts set out in paragraphs 4.1 to 4.116 of the report.

Section 4: Decision on whether the Code was breached

4.1 Summary of submissions by Councillor Whittaker:

- 4.1.1 Councillor Whittaker did not dispute that there had been a breach of the Code of Conduct. He accepted that he had failed to return his completed Register of Members Interests form within 28 days of the adoption of the revised Code of Conduct. He stated that he did not believe that the public had been disadvantaged as there were no material differences between the old form and the contents of the new form.

4.2 Summary of submissions by the Investigating Officer:

- Mrs Brown did not make any representations to the Committee other than to confirm that the contents of her report were accurate.

4.3 The Standards Committee's decision on whether or not there has been a breach of the Code.

- 4.3.1 The Standards Committee reached the following decision after considering the submissions of the parties:

- That Councillor Whittaker had failed to follow the Code of Conduct by being in breach of Part 3 paragraph 13(1) in that he did not provide the Monitoring Officer with the Member's Register of Interests Form within 28 days of the Code of Conduct being adopted by the Council.

- 4.3.2 The relevant sections of the Code of Conduct are:

Part 3 paragraph 13 (1)

- 4.3.3 The Standards Committee's reasons for this decision were:

- The revised Code of Conduct placing Councillors under an obligation to complete a new style Register of Members Interests form was adopted by the Council on 18th July 2007.
- Councillor Whittaker was informed of the change to the rules regarding the revised Code of Conduct by letter and was present at the Council meeting when the revised Code was adopted. He also attended training on the new Code of Conduct. Further, a reminder letter was sent out in December 2007 to all Councillors who had not returned the Register of Members Interests Forms.

- Councillor Whittaker does not dispute any of the above facts and admits that he did not return his form until 3rd April 2008 despite the requirement being for the form to be returned on or before 15th August 2007.

4.4 Details of legal advice given

None

Section 5: Sanction

5.1 Summary of submissions as to sanction by Councillor Whittaker

5.1.1 Councillor Whittaker stated that with the benefit of hindsight he now realised he should have submitted the form sooner. He was not able to specify any particular reason for the delay although he agreed that it was not due to lack of prompting by officers, and disagreed that the form was only completed when he was aware he was going to be investigated.

5.2 Summary of submissions by the Investigating Officer

5.2.1 No further submissions were made by Mrs Brown

5.3 The standard's committee's decision on what sanction ought to be imposed

5.3.1 After considering the Investigating Officer's report, the submissions of the parties and the guidance on deciding a penalty issued by the Standards Board for England, the standards committee decided to impose on Councillor Whittaker the sanction of one month's suspension.

5.3.2 The sanction will take effect from 1st November 2008 until 30th November 2008.

5.3.3 The standards committee's reasons for deciding to impose the sanction of one month's suspension are:

- The committee formed the view that the breach was significant and therefore a lesser penalty of censure or partial suspension would not be suitable.
- The committee noted Councillor Whittaker's leadership role within the Council as a member of the cabinet.

- The Committee further noted that numerous reminders by officers were sent and that the Council provided training to Members on the introduction of the new Code of Conduct which Councillor Whittaker had attended.
- The committee was of the view that the requirement to provide a Register of Members Interests Form is a pivotal part of the Code which had been breached. Further, that members of the public are entitled to transparency and accuracy with respect to Member's interests.
- The Committee therefore decided to impose a suspension of one calendar month from 1st November 2008. The reason the Committee decided to delay the start date of the suspension was to allow officers, constituents and other elected members the opportunity to organise their work streams accordingly.

5.4 Details of legal advice given

5.4.1 Interpretation of the phrase "breach of trust".

Section 6: Right to appeal

6.1 Councillor Whittaker has the right to apply in writing to the President of the Adjudication Panel for England for permission to appeal the Standards Committee's findings. The President of the Adjudication Panel must receive written notice requesting permission to appeal within 21 days of the receipt by Councillor Whittaker of notification of the Standards Committee's finding.

Section 7: Recommendations to the authority

No recommendations were made by the committee.

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Chairman of the Standards Committee

Dated: