

East Devon District Council

Standards (Parish Councils) Sub Committee Determination

Code of Conduct Hearing

EDDC Reference Number	02/07
SBE Reference Number	SBE16511.06
Date of Decision	11 June 2007
Member who is the subject of the allegation	Cllr P W Burrows
Member's representative	None
Relevant Council	Seaton Town Council/East Devon District Council
Person who made the allegation	Cllr J K Meakin, Seaton Town Council
ESO who referred the matter	Jennifer Rogers
Monitoring Officer	Denise Lyon
Date of the hearing	11 June 2007
Chairman of the hearing	Mr E Butt
Other members of the Sub	Cllr P A Diviani

Committee	Cllr S P Pollentine (Parish Council representative)
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Deputy Monitoring Officer and Legal Advisor to the Standards (Parish Council) Sub Committee	Rachel Pocock
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Investigating Officer	Jan Shadbolt, Director of Corporate Services & Monitoring Officer, Mid Devon District Council
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Democratic Services Officer	Janet Wilson
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1. Preliminary Documents

1.1 The referral from the Ethical Standards Officer

On 27 November 2006 the Ethical Standards Officer referred to the Monitoring Officer a report under Section 60(2) of the Local Government Act 2000 in relation to allegations made against Cllr P W Burrows of Seaton Town Council Council and East Devon District Council. The allegations were investigated by Jan Shadbolt, Monitoring Officer of East Devon District Council. Her report was referred to this sub committee for hearing in accordance with the Regulations.

The allegations are that:

- At a meeting of the Seaton Traffic Management Group on 11 October 2006 Councillor Burrows failed to declare a personal and prejudicial interest during a discussion about a change to the traffic flow arrangements in Fore Street and Queen Street, a failure that breached paragraphs 9 and 10 of the East Devon District Council Local Code of Conduct adopted by East Devon District Council on 1 May 2002 (the District Code) and paragraphs 8 and 9 of the Code of Member Conduct for Seaton Parish Council adopted on 1 May 2002 (the Parish Code).
- Councillor Burrows offered to personally circulate a questionnaire to the relevant premises in the area, a failure that breached paragraph 5(1) of the District Code and paragraph 5(1) of the Parish Code.

2. Oral and written submissions (procedural)

2.1 The Standards (Parish Council) Sub Committee's decision on any procedural matters:

Cllr Burrows had already indicated on Form D that he did not want any part of the hearing to be held in private. The presumption is that all hearings should be held in public unless a valid reason can be established for a hearing to be held in private, under the terms of the Local Government Act 1972. The hearing was therefore held in public.

2.2 Rachel Pocock advised that although Cllr Burrows was no longer an East Devon District Councillor, because he remained a Seaton Town Councillor there was no change in the powers available to the sub committee under the regulations in the event there was firstly any finding of breach, and second, any decision to impose a sanction.

3. Findings of Fact

3.1 No facts in the Monitoring Officer's report were disputed by Cllr in the pre-hearing process.

3.2 Summary of evidence: The Sub Committee considered fully the report and enclosures before them and the representations made by Cllr Burrows and the Investigating Officer.

3.3 Summary of submissions by Investigating Officer:

The Investigating Officer's did not wish to add to the findings of fact in her report.

3.5 Summary of submissions by Cllr Burrows:

Cllr Burrows did not dispute any of the findings of fact.

3.6 The Standards (Parish Council) Sub Committee made the following findings of fact after considering the evidence before the Committee:

As set out in section 4 of the Investigating Officer's report.

4. Whether or not the Member has failed to follow the Code of Conduct

4.1 Summary of submissions by the Investigating Officer:

The Investigating Officer advised the Sub Committee that the Code of Conduct was not clear cut with regard to the types of meeting it covered. She considered the Traffic Management Group to be a properly constituted committee, rather than an informal meeting, and as such it was subject to the Code of Conduct. The Group meetings were minuted and followed an agenda. There were representatives of all three councils on it. (E.D.D.C Seaton Town Council and Devon County Council.) Councillor Burrows should therefore have declared a personal interest when the traffic flow arrangements in Queen Street were first discussed. Failure to do so resulted in her finding of a breach. Cllr Burrows accepted he should have declared a personal interest.

With regard to the issue of using his position to improperly confer or secure an advantage the Investigating Officer explained that she did not believe Councillor Burrows was guilty of this. She believed that his help had been innocently offered, although the action might have been naive. There was no advantage or disadvantage in her view in the possible change in the traffic arrangements.

4.2 Advice received from the legal adviser

The Legal Advisor advised that the fact that the Traffic Management Group was called a group and not a committee was not determinative of whether the Code applied in terms of declaring personal and prejudicial interests at meetings. The Code defined meetings as 'any meeting of the authority or of its committees, sub-committees or joint committees'. The Code of Conduct did not cover informal meetings but the representation on the Group implied that this was not an informal meeting.

4.3 Summary of submissions by Cllr Burrows:

Cllr Burrows accepted that there had been a breach of the Code of Conduct.

4.3 Standard (Parish Councils) Sub Committee's decision on whether or not there had been a failure to comply with the Code of Conduct

4.3.1 The Standards (Parish Councils) Sub Committee reached the following decision after considering the submissions of the parties.

4.3.2 The relevant sections of the Code of Conduct are:
Paragraph 9(1) which states: A Member with a personal interest in a matter who attends a meeting of the Council 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.

Paragraph 5(a) which states: You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage

4.3.3 Cllr Burrow did fail to comply with paragraph 9(1) of the Code of Conduct. The Standards (Parish Councils) Sub Committee's reasons for this decision were the Sub Committee were satisfied that the Traffic Group was a properly constituted Committee where declarations of interest were necessary and they were satisfied that Cllr Burrows had a personal interest which should have been declared.

In relation to the second allegation, the Sub Committee agreed with the Investigating Officer that there is no evidence to suggest that Councillor Burrows tried to or did secure an advantage or that there was one to be obtained.

5. What penalty, if any, ought to be imposed

5.1 Summary of submissions by the Investigating Officer:

The Investigating Officer submitted that Cllr Burrows was now aware that he should have declared a personal interest at the meeting. She believed that he understood the Code of Conduct and would be more diligent in future. She felt that if the Sub Committee chose to impose a sanction that it should be the most minimal one available.

5.2 Summary of submissions by Cllr Burrows:

Councillor Burrows stated that he did not disagree with the Investigating Officer. He had already supplied a letter dated 24 May 2007 (in the committee bundle) containing an apology and an explanation that the nature of the Traffic Group meetings do not lend themselves as a matter of course to declaring personal interests

5.3 Standards (Parish Council) Sub Committee's decision on what penalty, if any, ought to be imposed:

5.3.1 The Standards (Parish Council) Sub Committee reached the following decision after considering the written evidence and submissions of the parties.

5.3.2 The penalty of censure to be imposed on the Member as there had been a breach of the Code of Conduct which merited a sanction in the sub committee's view. The penalty was to take immediate effect. The Committee were minded that this was the minimum sanction which could be imposed.

The Committee did not feel any further action, or a requirement to attend training, was appropriate.

5.3.3 The Standards (Parish Council) Sub Committee decided to impose the penalty of censure and in order to promote good governance and accountability.

6. Right to appeal

Cllr Burrows has the right to apply in writing to the President of the Adjudication Panel for England for permission to appeal the Standards (Parish Councils) Sub Committee's decision. Written notice requesting permission to appeal must be received by the President of the Adjudication Panel within 21 days of the member's receipt of notification of the Standards (Parish Councils) Sub Committee's determination.

Signed:.....

**Chairman of the Standards (Parish Councils) Sub Committee
East Devon District Council**

Dated:.....