

## East Devon District Council

### Standards Committee Determination

#### Hearing in relation to a possible failure to follow the Code of Conduct

<b>EDDC Reference Number</b>	03/07
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<b>SBE Reference Number</b>	SBE 17062.06
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<b>Date of Report</b>	June 2007
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<b>Member who is the subject of the allegation</b>	W G Buskin
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<b>Member's representative</b>	None
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<b>Relevant Council</b>	Seaton Town Council
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<b>Person who made the allegation</b>	Town Councillor J Meakin
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<b>Ethical Standards Officer</b>	Jennifer Rogers
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<b>Ethical Standards Officer's representative</b>	None
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<b>Date of the hearing</b>	29 August 2007
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<b>Chairman of the hearing</b>	Mrs J. Durrant
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<b>Standards Committee Members attending the hearing</b>	Mrs J Durrant
	Councillor G P Chamberlain
	Councillor S P Pollentine

<b>Legal Advisor to the Standards Committee</b>	Rachel Pocock
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<b>Democratic Services Officer</b>	Diana Vernon
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<b>Monitoring Officer</b>	Denise Lyon
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## 1. Preliminary Documents

### 1.1 The referral from the Ethical Standards Officer

On 12 January 2007, 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 W G Buskin of Seaton Town Council. The allegations were investigated by Andrew Seddon, Senior Solicitor, of East Devon District Council. His report was referred to this sub committee for hearing in accordance with the Regulations.

The allegation was that at a meeting of the Finance and General Purposes Committee on 11 December 2006, Councillor Buskin failed to declare a prejudicial interest in item 8 of the agenda concerning Town Council budgetary costs for regeneration plans for Seaton Town and did not leave the meeting. It is alleged that Councillor Buskin had an interest relating to land in Seaton relevant to the agenda item for which he was a local agent and received a financial benefit. It is also alleged that the land was part of a major outline planning application submitted by the landowner identified in Councillor Buskin's register of interests and covered the majority of the regeneration area in the town.

## 2. Oral and written submissions (procedural)

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

Mr Buskin 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 W J Buskin was no longer a Seaton Town Councillor, the Monitoring Officer was still required to ensure the complaint was considered by the Standards (Parish Councils) Sub Committee. However, in the event that the Sub-Committee decided that there had been a breach of the Code of Conduct, the only sanction open to the Sub Committee in respect of former members was censure.

## 3. Findings of Fact

### 3.1 The following facts in the Investigating Officer's report were undisputed:

No facts were disputed by W G Buskin except 6.2.

### 3.2 The following facts in the ESO's report were disputed:

6.2 – failure to comply with a relevant requirement of paragraph 9(1) of the Code of Conduct of Seaton Town Council, namely failure to disclose a personal interest within the meaning of paragraph 8(1). In Form A, W G Buskin stated "I am not guilty so should read the same in 6.2". Mr Buskin clarified this meant he disputed he had had a personal or a prejudicial interest in the matter complained of.

### 3.2 Summary of evidence:

The Sub Committee considered fully the report and enclosures before them and the representations made by W G Buskin and the Monitoring Officer.

#### 3.4 Summary of submissions by W G Buskin

Mr Buskin advised that his interest in the Blue Water Holiday site was recorded in the record of Members' Interests but that the Blue Water Holiday site was not discussed at the Finance and General Purposes Committee on 11 December 2006.

The item discussed was the Regeneration Area which is owned by East Devon District Council and does not include the Blue Water Holiday site. He added that his only interest in the Blue Water Holiday site was that he was key holder and was awarded an honorarium.

#### 3.5 Summary of submissions by Monitoring Officer:

The Monitoring Officer outlined the findings of fact contained in the Investigating Officer's report.

#### 3.6 Standards (Parish Councils) Sub Committee's findings of fact

The Standards (Parish Councils) 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, namely that:

- ❑ The meeting of the Finance and General Purposes Committee on 11 December 2006 discussed issues relating to expenditure on advertising a Town Meeting to consider regeneration plans for Seaton,
- ❑ At the time of the above meeting, Councillor Buskin had a beneficial interest in the Blue Water Holiday site, Harbour Road, Seaton, that had been declared in Part A of the Register of Members' Interests dated 15 May 2005,
- ❑ The Committee meeting on 11 December 2006 did not discuss any proposals for the redevelopment of the Blue Water Holiday site,
- ❑ Councillor Buskin is clear in his own mind that discussions on expenditure, so far as it affected the regeneration plans, were concerned with budgetary matters which could in turn impact on the provision of a Visitor Centre on land owned by the District Council,
- ❑ At the Committee meeting on 11 December 2006, Councillor Buskin did not declare an interest and refused to leave the meeting.

##### 3.6.1 The Standards (Parish Councils) Sub Committee made the following findings in relation to the facts in dispute after considering the evidence before the Committee:

Mr Buskin stated that he had not declared an interest at the meeting because the Blue Water Holiday site land in which he had an interest did not form part of the Seaton Regeneration application. This statement did not alter the Committee's findings of fact because it was not in conflict with any of them.

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

#### 4.1 Summary of submissions by W G Buskin

Mr Buskin confirmed that the item on the Committee meeting on 11 December 2006 was to discuss the visitor centre on land owned by EDDC. He was a key holder of the Blue Water Holiday site but this land was not specifically included in the area under discussion.

#### 4.2 Summary of submissions by the Monitoring Officer:

The Monitoring Officer confirmed that the item on the agenda was about calling a public meeting to discuss the regeneration of Seaton. She confirmed that because of his involvement with land in the vicinity, Mr Buskin was more knowledgeable about the plans and the regeneration project as a whole than was an ordinary member of the public. She advised that it was important for the Council to be transparent, open and promote good governance. She advised that Mr Buskin should have declared a personal interest and he would then have been allowed to stay in the meeting and speak.

#### 4.3 **Standards (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:

- 8(1) – Personal interests
- 9(1) – Disclosure of Personal interests
- 10(1)- Prejudicial interests
- 12(1) – Participation in relation to disclosed interest

4.3.3 The Sub-Committee decided that W G Buskin had not complied with paragraphs 8(1) and 9(1) of the Code of Conduct. The Sub Committee reasoned that the Mr Buskin's interest in item 8 on the agenda of the Finance and General Purposes Committee on 11 December 2006 would reasonably be regarded as affecting him to a greater extent than members of the general public by virtue of his knowledge, experience and possible links with agents acting for prospective developers. As he did not disclose a personal interest he did not comply with paragraphs 8(1) and 9(1) of the Code of Conduct.

4.3.4 The Sub Committee reasoned that W G Buskin did not have a prejudicial interest within paragraph 10(1) of the Code of Conduct as his personal interest in the site was not sufficient to prejudice his judgement and he therefore did not need to declare a prejudicial interest or to withdraw from the meeting room. In remaining in the meeting room, he did not breach paragraph 12(1) of the Code of Conduct.

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

#### 5.1 Summary of submissions by the Monitoring Officer:

The Monitoring Officer reminded the Sub-Committee that as Mr Buskin was no longer a Councillor, the only sanction that could be chosen was one of censure. If this sanction was used, and it has been in similar Hearings locally, it might help to promote good governance, transparency and openness.

#### 5.2 Summary of submissions by Mr Buskin:

Mr Buskin accepted the findings of the investigation and advised that he would never stand as Councillor again.

5.3 Standards (Parish Council) Sub Committee’s decision on what penalty, if any, ought to be imposed. The Standards (Parish Council) Sub Committee reached the following decision after considering the written evidence and submissions of the parties.

5.3.1 The penalty of censure was to be imposed on Mr Buskin 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 Sub-Committee was minded that this was the only sanction which could be imposed.

5.3.2 The Sub-Committee had decided to impose this sanction in order to promote good governance and accountability.

5.3.3 The Sub-Committee recommended that the Clerk of Seaton Town Council arranged a training session for all Councillors, and not only those recently elected, to increase their awareness of the implications of the Code of Conduct and to promote their compliance with its requirements.

**6. Right to appeal**

6.1 W G Buskin has the right to apply in writing to the President of the Adjudication Panel for England for permission to appeal the Standards 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 Committee’s determination.

Signed:.....

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

Dated:.....

