

## Assessment of Code of Conduct Complaint - PC5/10 (Item 4.)

# Written Decision of West Berkshire Council's Hearing Panel of the Standards Committee

<b>Member who this Decision relates to:</b>	Councillor Derek Woad (Burghfield Parish Council)
<b>Person who made the original allegation:</b>	Mr Martyn Sheppard
<b>West Berkshire Council's Standards Committee Reference:</b>	PC5/10
<b>Chair of the Hearing Panel:</b>	Mr James Rees
<b>Other Members of the Hearing Panel:</b>	Mrs Gwen Mason (District Councillor), Mr Tony Renouf (Parish Councillor)  <i>Apologies for inability to attend the hearing were received on behalf of Parish Councillor Crissy Clemson.)</i>
<b>Monitoring Officer:</b>	Mr Andy Day
<b>Investigator:</b>	Mr Richard Taylor
<b>Clerk of the Hearing:</b>	Mrs Moira Fraser
<b>Date of the Hearing:</b>	14 October 2010
<b>Date Decision Issued:</b>	
<b>Hearing Panel's Decision on any Procedural Matter</b>	Both the complainant and the subject member had indicated during the pre-hearing process that they wanted the hearing to be considered in public.

## Summary of the Original Allegation

It was alleged, by Mr Sheppard (the Handybus Co-ordinator) that following the resignation of Councillor Woad as a Handybus driver he sent two 'abusive and threatening' emails to Mr Sheppard (dated the 10th and 12th May 2010).

Mr Sheppard accepts that although the issue of Councillor Woad's departure from the Handybus was not a matter for the Standards Committee he was concerned about the content of the emails that ensued after Councillor Woad's departure. In the emails sent by

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Councillor Woad he stated: 'O any I all so sit on the committee that gives out grants o dear o dear' and 'OH and I would not hold your breath waiting for a grant from Burghfield Parish Council'.

## **Relevant Sections of the Code of Conduct**

The investigation was referred to the Monitoring Officer pursuant to section 57A of the Local Government Act 2000 and was, therefore carried out in accordance with section 66 of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008.

The relevant paragraphs from the Code of Conduct are as follows:

### **Scope**

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority,and references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3)-(5) not applicable

### **General Obligations**

3. (a) You must treat others with respect.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.  
You
  - (a) 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.

## **Summary of the Evidence Considered and Representations Made**

The Panel considered the following evidence:

- Report and oral representation presented by the independent investigation officer, Mr Richard Taylor, into the allegation concerning the alleged breach of the Code of Conduct by Councillor Derek Woad of Burghfield Parish Council dated 19 August 2010 (including accompanying information).
- The witness statement attached to the report from Mr Graham Reeves as well as the oral representation from Mr Reeves at the Hearing Panel.
- The Panel also heard verbal evidence from the subject member Councillor Derek Woad,

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- As Mr Martyn Sheppard was unable to attend the Hearing Panel the Panel considered the original complaint submitted by him and the information provided to the investigator.

## **Findings of Fact**

After carefully considering both the written evidence submitted and the oral evidence given at the hearing, the Committee found:

- Councillor Woad had been a volunteer driver for Handybus for many years and he was a parish councillor for Burghfield Parish Council at the time he wrote the letters and emails. Although Councillor Woad had initially enjoyed a good relationship with the complainant but that this relationship had deteriorated over time.
- He did resign his position as driver in writing on the 3<sup>rd</sup> May 2010 and he did send the emails about which Mr Sheppard complained dated the 10<sup>th</sup> and 12<sup>th</sup> May.
- Councillor Woad did produce the hand written note included in the appendices to the report.
- Although Councillor Woad had threatened to use his position as a Parish Councillor to influence decisions in respect of grant funding to the Handybus organisation there was no evidence to suggest that he had carried out this threat.
- Councillor Woad attended the PCT LiNKs Group in his personal capacity and not as a representative of the Burghfield Parish Council.

## **Findings as to whether or not the Member failed to follow the Code of Conduct**

After carefully considering both the written evidence submitted and the oral evidence given at the hearing, the Panel found:

- Councillor Woad had breached the Code of Conduct by failing to treat others with respect and bringing his office into disrepute;
- Councillor Woad had not used or attempted to use his position as a member to improperly confer an advantage or disadvantage for himself or any other person.

## **Reasons for the Decision**

### Paragraph 3(a) Failing to treat others with respect

The Hearing Panel found that Councillor Derek Woad has breached section 3(1) of the Burghfield Parish Council Code of Conduct in that he failed to treat another, namely Mr Martyn Sheppard, with respect in the emails sent to him on the 10<sup>th</sup> and 12<sup>th</sup> May 2010.

The Hearing Panel found that the tone of the emails was threatening and discourteous.

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The Hearing Panel noted that Councillor Woad made reference to his position as a member of Burghfield Parish Council and in particular the Committee that allocated grants. He was therefore purporting to act as a Parish Councillor and was therefore subject to the Code of Conduct when sending the emails.

It was evident that Mr Sheppard felt aggrieved by the threatening tone of the emails.

The Hearing Panel found that Councillor Derek Woad has breached section 3(1) of the Burghfield Parish Council Code of Conduct in that he failed to treat another, namely Mr Graham Reeves, with respect in the emails sent to him.

Paragraph 5 of the Code of Conduct- conduct which could reasonably be regarded as bringing your office or authority into disrepute

The Hearing Panel found that Councillor Woad had allowed a private matter to impinge on his duties and obligations as a Parish Councillor.

Councillor Woad's emails to Mr Sheppard had given the impression that he was acting as a representative of Burghfield Parish Council.

Councillor Woad's emails were not sanctioned by the Burghfield Parish Council.

Councillor Woad was aware of the Code of Conduct but had sent threatening emails on two separate occasions.

Paragraph 6(a) - 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

Councillor Woad had sent the emails in which he gave the impression that he would use in position on the Burghfield Parish Council to ensure that the Handybus Scheme did not receive any grant funding from the Parish Council.

There was no evidence presented to the hearing that Councillor Woad had carried out his threat and that the funding to the organisation had been impacted on negatively in any way as a consequence of Councillor Woad's action.

Councillor Woad stated at the hearing that he wanted to get back at Mr Sheppard for the 'pain and aggravation' he had caused him and that he had not intended to nor would he have had the influence to affect any decision making by the parish Council.

The Hearing Panel found that although Councillor Woad had threatened to use his position to disadvantage the Handybus grant application he did not actually make any attempt to do so.

## **Sanctions Imposed and the Reasons for the Sanctions**

The Committee took into account the guidance provided by Standards for England when considering sanctions.

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It took into account that Councillor Derek Woad worked tirelessly as a volunteer driver and had an unblemished record as a Parish Councillor.

The Panel noted that Councillor Woad accepted that he should not have sent the emails and that his tone was not appropriate. The Panel noted Councillor Woad's comments that he had apologised to the clerk to the Parish Council.

The Panel noted that no apology had been made to Mr Sheppard or Mr Reeves.

The Panel noted that Councillor Woad had noted that he was relocating for personal reasons and would therefore be standing down as a Parish Councillor on the 30 October 2010.

The Standards Committee has therefore instructed Councillor Woad to send letters of apology to Mr Martyn Sheppard, Mr Graham Reeves and Burghfield Parish Council. The letters must be in a format agreed by the Monitoring Officer and the Chairman of the Standards Committee. The draft letters would need to be sent to the Monitoring officer by 25 October 2010. The final version of the letters would be sent to Messrs Sheppard and Reeves and the Parish Council by the 30 October 2010.

Councillor Woad was informed that, in the event that the apologies were not provided in the manner and timescales set, he could be the subject of a further complaint and that it was possible that any subsequent sanctions could be more severe.

## **Right to Appeal**

In accordance with the provisions of regulation 22 of The Tribunals Procedure (First-tier Tribunal) General Regulatory Chamber) Rules 2009, Councillor Woad may apply in writing to the Principal Judge of the First-Tier Tribunal (Local Government Standards in England) for permission to appeal against the decision, and apply for the suspension of any sanction imposed until such time as any appeal is determined. The Principal Judge must receive the written application for permission to appeal within 28 days of Councillor Woad receiving this Decision Notice.

A copy of regulation 22 of The Tribunals Procedure (First-tier Tribunal) General Regulatory Chamber) Rules 2009 is attached to this Notice.

Contact details for the First –Tier Tribunal are:

The First–Tier Tribunal (Local Government Standards in England)  
Tribunal Service  
York House  
31–36 York Place  
Leeds West Yorkshire LS1 2ED

Email: [AP-enquiries@tribunals.gsi.gov.uk](mailto:AP-enquiries@tribunals.gsi.gov.uk)

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