

Report of	Meeting	Date
Monitoring Officer	Standards Committee	17 September 2009

## CASE UPDATE

### PURPOSE OF REPORT

1. To advise Members of recent cases which have been considered nationally.

### RECOMMENDATION(S)

2. That the report be noted

### DETAILS OF CASES

3. Eight Adjudication Panel decisions and six reports of the outcome of investigations conducted by Ethical Standards Officers have been reported since the last meeting of the Committee. Copies of some of these decisions are annexed to this report.
4. The Phillips case which came before the Standards Board was the latest in the line of cases grappling with the difficulties arising after the Livingstone decision in dealing with Members' conduct in their private capacity. Councillor Phillips dropped a USB memory stick in a council meeting room. The memory stick contained a picture of a young girl in an indecent pose. The Ethical Standards Officer considered that Councillor Phillips conduct was in his private capacity and so there was no breach of the code of conduct.
5. Similar issues arose in a case reported by the BBC on the 12 August 2009. In that case a Borough Councillor in Kent posted comments on the social networking site 'Facebook' telling a British Asian man 'get back to washing dishes in a curry house'. That resulted in a complaint to his local Standards Committee. The assessment panel decided not to refer the case for investigation on the basis that the conduct was undertaken in the Councillors private life.
6. Some of the difficulties caused by the Livingstone decision will of course be overcome once the 'criminal behaviour' provisions of the code of conduct are implemented (although even then there will be considerable gaps in the kind of behaviour covered by the code). In the meantime we can expect to see more of these cases being reported.

7. The Adjudication Panel's decisions in the cases of Mason and Cox demonstrate that context is everything when it comes to dealing with issues of disrespect. In the Cox decision, Councillor Cox had breached the code of conduct when he referred to political opponents as being 'corrupt'. However no action was required against him as the Panel were satisfied that this was a throw away remark. In the Mason case on the other hand, Councillor Mason's reference to the Town Mayor and Deputy Clerk 'proven liars' justified a 12 month suspension from office. It is particularly interesting in that case that the Adjudication Panel specifically found that it was unnecessary to judge whether the allegation against the Mayor and Deputy Clerk were true. In this case the circumstances in which he made the remarks justified a finding that the Code had been breached.
8. Members' relations with Officers also arose in the Standards Board case of Crane and the Adjudication Panel decision in Buchanan. In the former case Councillor Crane has been forthright but not deliberately rude or offensive and had not breached the code. The Buchanan case on the other hand is a very sad reflection of what can go wrong when relationships sour in a Council and led to Councillor Buchanan being suspended from office for a period of two years.
9. The Guselli case is one where perhaps a little bit more detail would have been helpful to understand the outcome. In that case although Councillor Guselli was found to have deliberately misrepresented the performance of a Headteacher in the press and had therefore breached the code of conduct by failing to treat the Headteacher with respect, no further action was considered to be necessary.
10. Finally the Adjudication Panel decision in the Wicking case is worth considering as it is one of the relatively few cases dealing with the issue of a Councillor breaching confidentiality. In this case Councillor Wicking thought that details of a former Chief Executive's redundancy package should be made public and he released them to the press. Under the old code such a breach of confidentiality would have immediately have justified a finding of breach. However amendments made in 2007 allow for disclosures to be made if they are reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the authority. The detail of the balancing exercise conducted by the Adjudication Panel make for interesting reading. The outcome for Councillor Wicking was a three month suspension.

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There are no background papers to this report.

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