

## **Hearing Panel of Standards Committee**

**Monday 24 July, 2006 at 10.00 a.m.**

**at the Council House, Walsall**

### **Present**

Mrs. K. McLeod (Chairman)  
Councillor A. Bentley  
Dr. K. Biscomb  
Mrs. S.F. Parsons  
Mr. R. Taylor

### **In attendance**

Councillor K. Phillips  
Councillor K. Chambers

Ms. N. Birtles (Ethical Standards Officer)  
Mr. B. Gill (Monitoring Officer)

Mr. A. Cox (Deputy Monitoring Officer – Legal advisor)

### **Apology**

An apology for non-attendance was submitted on behalf of Councillor H. Khan. Mrs. S.F. Parsons was attending as substitute member.

### **Declarations of interest**

There were no declarations of interest.

### **Report of Mr. N. Marcar, Ethical Standards Officer for the Standards Board for England, Case No. SBE12036.05**

The report of the Ethical Standards Officer was submitted:

(see annexed)

At this juncture, the Chairman asked Councillor Phillips whether the report of the Ethical Standards Officer had been accepted by her. Councillor Phillips confirmed that she had accepted the contents of the Ethical Standards Officer's report.

The Chairman referred to the disclosures of information and asked the Ethical Standards Officer to confirm that disclosures of information were to potentially three individuals but no further. Ms. Birtles, Ethical Standards Officer, indicated that she had seen the statement which indicated that the information had been disclosed to two officers of the Council and one police officer, but no member of the public. It was alleged that there was a disclosure to Mr. Davies, an officer of the Council, in 2005. There were no questions from Dr. Biscomb or Mrs. S.F. Parsons. Councillor Bentley asked whether the complainant, Mrs. S., made it clear that the information was confidential when she passed it on to Councillor Phillips and similarly whether it had been made clear to Mr. Davies by Councillor Phillips. He added that it was not clear from the report. Ms. Birtles referred members to page 140, paragraph 4.6 of the report, which indicated that the nature of the information disclosed was so sensitive that anyone in receipt of it would not fail to realise how confidential it was. She also referred members to page 57 of the report where it was acknowledged by Councillor Phillips that the information was confidential.

Councillor Bentley asked again whether Mr. Davies had been made aware of the confidentiality of the information. In reply Ms. Birtles indicated that the same evidence applied. Mr. Davies had acknowledged that the information was confidential but his response was to refer it to the complainant. She felt that there was no justification for the release of the information. Councillor Bentley asked how the complainant had found out about the information. In reply Ms. Birtles indicated that Mr. Davies had passed the information onto the complainant. She questioned whether it was proper for an officer of the Council to relay the information to a member of the public and suggested that it should have been referred to the line manager,

Mr. Taylor referred to the disclosure of the information and suggested that the information was given in a very brief outline and in circumstances in which Councillor Phillips thought it would help in order to achieve justice and fairness. Ms. Birtles indicated that this was relevant to mitigation. The information given was highly sensitive. It was a narrow disclosure, but conversations between officers and Councillors must be relevant to their individual roles. In this case she considered that it was not relevant and that the information given was treated as a source of gossip.

The Chairman then asked Councillor Phillips to confirm that the report was accepted. Councillor Phillips confirmed that it was. Councillor Phillips was then invited to address the panel and, on her behalf, her representative, Councillor Chambers, circulated a statement which was read out in its entirety, two references for Councillor Phillips were also circulated:

(see annexed)

The Chairman had no questions for Councillor Phillips, however, Dr. Biscomb referred to page 140, paragraph 4.21 of the report and asked for clarification. Councillor Phillips indicated that she had only referred to the compensation issue. At this juncture Ms. Birtles indicated that this may need to be dealt with in private session. Mr. T. Cox, the panel's legal advisor, agreed that this was a mitigation issue and it was:

## **Resolved**

That during consideration of the following discussion, the panel considers that the items for discussion are exempt information under paragraphs 1 and 2 of the Access to Information rules Schedule 12A of the Local Government Act, 1972 (as amended):

The members of the public present at the hearing withdrew from the meeting at 10.44 a.m.

Ms. Birtles advised the panel that the complainant was in attendance and had expressed a desire to remain in the meeting during the discussion. The Chairman indicated that the issue of the discussion was the conversation between Councillor Phillips and Mr. Davies. The panel's legal advisor agreed, but did not see any harm in allowing the complainant to stay. Councillor Chambers, Councillor Phillips' representative confirmed that they had no objection. The complainant was allowed to remain in the room during the discussion.

Ms. Birtles advised members that the report had been agreed and the discussion which took place between Councillor Phillips and Mr. Davies. It had taken courage by the complainant to raise the issues and they had been raised with Councillor Phillips for a specific purpose only. The concerns of the complainant were that if the information had been passed on to the ASBO officer (Mr Davies), who else had they been passed to? It was considered to be a breach of trust and the complainant had been disgusted and appalled and felt betrayed. Ms. Birtles reiterated her comments regarding conversations between Councillors and officers being relevant to the matter in hand.

Members of the public were re-admitted to the meeting at 10.52 a.m.

Mr. Taylor asked whether there was any evidence of any previous contact between Councillor Phillips and Mr. Davies. Ms. Birtles indicated that the evidence was that there had been several conversations but nothing prior to this particular occasion.

Both parties were invited to make a final statement.

Ms. Birtles indicated that if it was found that there was a breach of the Code of Conduct, the panel had range of actions they could take. She added that Councillor Phillips had actually made a written apology to the complainant which had been circulated with Councillor Phillips' statement. She had also agreed to undertake one to one training on the Member Code of Conduct with the Monitoring Officer.

Councillor Chambers, in conclusion, indicated that Councillor Phillips had learnt her lesson and was prepared to undertake further training. She had indicated that the matter would never reoccur and asked the panel to deal with this matter leniently.

All parties left the meeting at 10.55 a.m. Following which members carefully considered the representations made and it was:

## **Resolved**

- (a) That the Committee has reached the unanimous decision after considering the submissions of the parties, that the member had breached Section 3(a) of the Code of Conduct for elected members;
- (b) That the Committee has determined by majority, that Councillor Phillips will receive a written censure in relation to her breach of the Code of Conduct, this will take effect from the date of this decision.

The Committee's reasons for deciding to impose this sanction was that it has considered all the evidence in this case and the oral representations by the parties to date. Whilst it is recognised that the disclosure of confidential information is a serious issue and such breaches may reduce public confidence in what they say to elected members, the Committee is satisfied in this case the disclosure was not made maliciously and was done with the intention of trying to resolve a neighbour dispute. The Committee fully recognised the distress the disclosure had caused the complainant which is why it has chosen to issue a formal sanction. However, based against this the Committee has seen genuine remorse from Councillor Phillips in respect of her actions. The Committee also recognised that this was the first time that she has had such a complaint made against her of this nature. She has also said that she has learnt from this incident and would not repeat this. She has, of her own volition apologised in writing to the complainant and has voluntarily agreed to undertake one to one training in relation to the Code of Conduct with the Council's Monitoring Officer. The Committee therefore recommend that this training be undertaken within the next 8 weeks of the date of his hearing.

All parties were re-admitted to the meeting at 12.39 p.m. and advised of the panel's decision.

Councillor Phillips was advised that she had right to apply in writing to the President of the Adjudication Panel for England for permission to appeal the Standards Committee's findings and the President of the Adjudication Panel must receive written notice requesting permission to appeal within 21 days of the member's receipt of notification of the Standards Committee's findings.

## **Recommendations to the authority**

In the light of this case, it was:

## **Resolved**

That, in relation to the promotion and maintenance of high standards of conduct by the members and co-opted members of the authority, successful completion of the one to one training by Councillor Phillips be reported to the next convenient meeting of the Standards Committee.

## **Termination of meeting**

The meeting terminated at 12.43 p.m.

Chairman:

Date: