

NORTHAMPTON BOROUGH COUNCIL

STANDARDS COMMITTEE

Wednesday, 21 December 2005

**LOCAL DETERMINATION OF A COMPLAINT TO THE STANDARDS BOARD OF
ENGLAND**

COUNCILLOR STEPHEN STEWART

Committee Members :- Mrs Margaret Roberts (Chair)
Mr Jorgan Romose
Councillor Margaret Pritchard

Also Present :- Mr Frances Fernandes NBC Monitoring Officer
Mrs Jackie Buckler Procurement & Ops
Team Leader
Mrs Joanne McCaul NBC Meetings Services
Officer

Member :- Councillor Stephen Stewart

Purpose of the Hearing

The Chair advised that Mr Fernandes, NBC Monitoring Officer, had received a report from The Standards Board for England in relation to an investigation under Section 59 of the Local Government Act 2000 by Stephen Kingston, Ethical Standards Officer, into an allegation concerning Councillor Stephen Stewart, a member of Northampton Borough Council. The report related to an alleged breach of paragraph 2.3 of the Northampton Borough Council Code of Conduct for Councillors. The role of the Committee was to determine whether the Code of Conduct had been breached and if so what penalty should be imposed if any.

The Chair referred to the procedure that would be followed, a copy of which had been sent to Councillor Stewart, and advised that this could be varied as appropriate as the meeting progressed.

Preliminary Proceedings

Councillor Stewart advised that in the form he had submitted previously he had indicated

that he did not want to have any part of the hearing held in private, however he had now changed his mind and wanted the hearing to take place in private. The Chair invited Councillor Stewart to make a statement as to his reasons for wanting the hearing to be heard in private and consideration would then be given as to whether those reasons met the criteria for excluding the public and press. The Monitoring Officer stated that such hearings should be held in public unless the reasons given met the criteria in relation to the exempt information that was to be considered.

Councillor Stewart felt that it was sufficient for the result of the hearing to be made public. Also, in his view, the local press had treated him harshly when he had been convicted and subsequently, and he did not want to repeat the experience. The Monitoring Officer advised the Committee that the reasons given did not satisfy the legal criteria for excluding the press and public and therefore the hearing should be held in public. He then gave examples of the types of exempt information that met the criteria for the case to be heard in private.

Councillor Stewart stated that the complaint had been made by an officer of Wellingborough Borough Council after seeing an article in the Chronicle and Echo and asked whether an arrangement was in place whereby an officer of Northampton Borough Council would take the same action in a similar situation. The Monitoring Officer advised that there was no such arrangement in place.

Consideration of the facts in relation to the incident that led to the conviction

The Monitoring Officer advised that he had written to Councillor Stewart before the hearing as to whether he disputed any of the facts in relation to the incident and he was now of the understanding that the facts were not disputed. Councillor Stewart confirmed that the facts in relation to the incident that led to his conviction of an offence under Section 5(1) of the Road Traffic Act 1988 were not in dispute.

The Chair offered Councillor Stewart the opportunity to expand further on the facts relating to the incident, however he declined to do so as they had already been fully documented and he did not deny the incident had taken place.

Consideration as to whether paragraph 2.3 of the Councillor Code of Conduct had been breached

The Chair advised that the Committee would now consider whether paragraph 2.3 of the Code of Conduct had been breached. Paragraph 2.3 stated that "A Member must not in his/her official capacity, or any other circumstance, conduct himself/herself in a manner which could reasonably be regarded as bringing his/her office or the Council into disrepute."

Councillor Stewart sought clarification as to whether, as he received a members' allowance, he was an employee of the Council. If so would an employee in the same position be subject to the same sort of hearing. The Monitoring Officer advised that although Councillors received an allowance they were not employees of the Council. Any Officers in the same position would be dealt with through the Borough Council's employee policies and procedures.

In response to a question from Councillor Stewart, the Monitoring Officer advised that the

complaint had initially been investigated by the Standards Board of England. A report had then been produced by the Ethical Standards Officer which had then been sent back to the local Standards Committee whose role was to determine whether they agreed that the Code of Conduct had been breached and if so what penalty should be imposed if any.

The Chair asked Councillor Stewart to state whether he accepted that he had breached paragraph 2.3 of the Code of Conduct. Councillor Stewart commented that he did not think it was a requirement of being a Councillor to have a driving licence as several of the other Councillors did not drive. He had continued to work and to undertake his Council responsibilities and he did not feel that either had been detrimentally affected by not being able to drive. However he accepted that the offence had taken place and that he was guilty of making an error of judgement that has led to him contravening paragraph 2.3 of the Code of Conduct.

The Monitoring Officer advised that the hearing would be adjourned for the Committee to decide whether paragraph 2.3 of the Code of Conduct had been breached. Although Councillor Stewart had been convicted of the offence and had accepted that he had breached the Code of Conduct, the Committee would make its own decision as to whether a breach had taken place. He then asked Councillor Stewart to read paragraph 2.3 again to ensure he was fully aware of the part of the Code of Conduct he was admitting to having breached.

Having read paragraph 2.3 Councillor Stewart stated that he now did not accept that he had breached the Code of Conduct. He felt that the code should not apply 24 hours a day and on the day of the incident he had not been involved in Council business. He had been playing golf and when he had finished he had had "one pint too many" according to the reading taken by the Police. He felt that he had made an error in judgement having had three pints instead of two. Also the incident had taken place at 5.20pm on a Tuesday which, in his view, was not as serious as it would have been if he had been stopped after having been in a public house all evening. In his view this error of judgement was not serious enough to have breached the Code of Conduct.

Councillor Pritchard asked Councillor Stewart whether he agreed that part of the role of a Councillor was community leadership and this included not breaking the law. Councillor Stewart accept this and acknowledged that as the Chair of Licensing Committee he was in a particularly vulnerable position in this respect.

Reference was made to the report of the incident which stated that Councillor Stewart had been driving on the wrong side of the road and the possible repercussions of this action. Councillor Stewart advised that the incident had taken place in Main Road Duston and it was difficult at any time to keep to one side of the road, particularly as he had a MPV.

Councillor Pritchard referred to Councillor Stewart's statement in relation to the incident whereby he had stated that earlier in the evening he had had three pints however initially he had stated that he had had two. Councillor Stewart clarified that had had one pint before his round of golf and two after, however a round of golf took four hours. He felt he had been sufficiently punished for his misdemeanour having lost his licence, been fined and having attended a Drink Awareness Course.

Mr Romose referred to Councillor Stewart's resignation as Chair of Licensing Committee following his conviction and asked why he thought it was appropriate for him to continue as a member of the Licensing Committee. Councillor Stewart advised that at the time of his conviction the new Liquor Licensing laws had been introduced which had resulted in a significant amount of work for the members of the licensing Committee. Members of the Licensing Committee had received liquor licensing training and the hearings to consider licensing applications took place on Tuesday mornings and therefore only some of the Committee were able to attend. He felt that his resignation from the Committee would put an undue burden on the rest of the Committee particularly as he was one of the members who was able to attend on Tuesday mornings. He had attended approximately 90% of the Licensing Sub Committee hearings. He had spoken to Councillor Larratt, the Leader of the Council at the time and he concurred with this decision. He commented that as a result of resigning as Chair of the Committee he had lost the allowance that was payable for this role.

Councillor Prichard asked Councillor Stewart if he appreciated how the situation appeared to the public and therefore did he not think he had brought the Council into disrepute. Councillor Stewart stated that he appreciated how it appeared to the public but it was the decision of the Standards Committee as to whether he had brought the Council into disrepute.

The Monitoring Officer asked Councillor Stewart whether he agreed with the facts relating to the incident as reported and Councillor Stewart, having initially voiced some concerns as to the Police's version of the event, agreed that he accepted the facts as stated.

The Chair asked Councillor Stewart whether he had attended the Standards Committee training, which had included the Code of Conduct. Councillor Stewart advised that to the best of his knowledge he had not attended the training.

The hearing was adjourned to allow the Committee to consider whether paragraph 2.3 of the Code of Conduct had been breached.

The hearing reconvened.

Decision as to whether paragraph 2.3 of the Code of Conduct had been breached

The Chair advised that the Committee had considered the facts and had decided that paragraph 2.3 of the Code of Conduct had been breached.

Councillor Stewart had been convicted under section 5(1) of the Road Traffic Act 1988 for driving while under the influence of alcohol greater than the prescribed limit. The Committee felt that this was a serious offence and could have proved a risk to the public. Councillor Stewart was the Chair of the Licensing Committee at the time and the Committee felt that this was relevant to the case.

Consideration as to the penalty, if any, that could be imposed

The Monitoring Officer advised of the penalties the Committee could impose under the

legislation.

Councillor Stewart asked how any suspension would effect the political balance of the Council and whether during the suspension period he could continue his ward Councillor duties. The Monitoring Officer advised that the legislation did not impact on the proportionality of the Council and although the political balance may be affected the legislation allowed for this to happen. If a suspension was imposed Councillor Stewart could still work with his constituents but could not attend Council meetings and therefore vote and, depending on the decision of the Committee, may not be able to enter Council premises.

The Chair asked Councillor Stewart whether there was anything he wished the Committee to take into account when considering the penalty.

Councillor Stewart felt that he had already been punished by the Magistrates Court, including him attending a Drink Awareness Course. He was willing to apologise verbally or in writing but felt that any suspension was too severe a penalty.

The Chair asked Councillor Stewart whether he had made any sort of apology already and he advised that he had apologised to Councillor Larratt.

In response to a question from Councillor Pritchard, Councillor Stewart explained what he had learnt from the Drink Awareness Course and confirmed that as a result his attitude towards drinking and driving had changed completely. He was now a regular user of public transport and he gave the Committee his assurance that he would not commit the offence again.

Mr Romose asked whether, in retrospect, Councillor Stewart felt he should have resigned from the Licensing Committee completely and Councillor Stewart reiterated his reasons for not doing so. He advised that when the level of work in relation to liquor licensing had lessened he would reconsider his position.

The hearing adjourned for the Committee to consider the penalty, if any, that should be imposed.

Decision as to the penalty to be imposed

The Committee had decided that :-

- Councillor Stewart write to all members of the Council apologising for bringing his office as Councillor, and the Council, into disrepute by having contravened paragraph 2.3 of the Code of Conduct.
- Councillor Stewart make a verbal apology at the Full Council meeting on 23 January 2006 or as soon thereafter as practicable, ensuring that an apology was made in the public domain.
- Councillor Stewart attend a course in relation to Standards and the Code of Conduct as and when that training was available.
- A letter of censure be sent to Councillor Stewart by the Committee stating that they considered this a serious offence and that the Code of Conduct had been breached.

- The Committee make a recommendation to Council that it was inappropriate for any member of the Council to serve on the Licensing Committee if they have had a conviction for drink driving.

The Monitoring Officer advised that Councillor Stewart would receive the decision in writing. He advised that although a recommendation was being made to Council it was then up to the Council whether the recommendation was accepted.