



FYLDE BOROUGH COUNCIL



Meeting Agenda

Standards Committee

(Please note this is a meeting of the Consideration and Hearing Sub-Committee of the Standards Committee, NOT of the committee itself.)

Reception Room,
Town Hall, St Annes

Wednesday 28 October 2009, 6:00pm

The maximum capacity for this meeting room is 60 persons – once this limit is reached no other person can be admitted.

STANDARDS COMMITTEE

MEMBERSHIP

CHAIRMAN - Mr D Birchall

VICE CHAIRMAN – Councillor Brenda Ackers

Councillor Paul Hayhurst

Parish Councillor Mr H Butler

Councillor Howard Henshaw

Parish Councillor Linda Burn

Councillor Kevin Eastham

Alan Marsh

Roy Male

Glynn Driver

Parish Councillor Richard Nulty

Parish Councillor Alan Metcalf

Contact: Peter Welsh, St. Annes (01253) 658502
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Our Vision

To establish Fylde Borough Council as a high performing local authority

Our Corporate Objectives

To improve the economic, social and environmental well-being of our communities through:

- The promotion and enhancement of the natural built environment
- Increasing the availability and access to good quality housing for all
- Maintaining healthy and safe communities to reduce the fear of crime
- Supporting and sustaining a strong and diverse Fylde coast economy to further enhance employment prospects

We will achieve this by:

Focusing on customer requirements
Clear community and organisational leadership
Delivering high quality, cost-effective services
Partnership working



A G E N D A

PART I - MATTERS DELEGATED TO COMMITTEE

ITEM	PAGE
1. DECLARATIONS OF INTEREST: <i>if a member requires advice on declarations of interest he/she is advised to contact the Monitoring Officer in advance of the meeting. (for the assistance of members an extract from the councils code of conduct is attached).</i>	4
2. CONFIRMATION OF MINUTES: <i>to confirm as a correct record the minutes of the standards committee held on 2nd September 2009 attached at the end of the agenda.</i>	4
3. SUBSTITUTE MEMBERS: <i>details of any substitute members notified in accordance with council procedure rule 26.3</i>	4
4. CONSIDERATION OF INVESTIGATION REPORT: SIMON RENWICK	7-27
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Personal interests

8.—(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

- (i) any employment or business carried on by you;
 - (ii) any person or body who employs or has appointed you;
 - (iii) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (iv) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (vi) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (vii) any land in your authority's area in which you have a beneficial interest;
 - (viii) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision;

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

- 9.—(1)** Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000(d).

Prejudicial interest generally

- 10.—**(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of—
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

- 11.—** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

- 12.—**(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 unless you have obtained a dispensation from your authority's standards committee;
 - (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

REPORT



REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	HEARING SUB-COMMITTEE	28 OCTOBER 2009	4

CONSIDERATION OF INVESTIGATION REPORT: SIMON RENWICK

Public Item

Exempt Item

This item is for consideration in the public part of the meeting.

Summary

The report into complaints that Councillor Simon Renwick has failed to comply with the code of conduct has been received. It upholds one part of the complaint but does not uphold the remaining two parts.

The sub-committee must refer the part of the complaint that has been upheld in the report to a hearing. It can formally dismiss the parts of the complaint that have not been upheld by the report.

The sub-committee must decide whether to seek to refer any part of the case to the Adjudication Panel.

Recommendations

1. Refer the finding of the investigating officer that Councillor Simon Renwick failed to comply with paragraph 3.1 of Fylde Borough Council's Code of Conduct to a further meeting of the sub-committee for a hearing.
2. Accept the findings of the investigating officer that Councillor Simon Renwick did not fail to comply with the provisions of paragraphs 3.2.2 and 5 of the code of conduct.

Report

Background

1. A complaint was received that Councillor Simon Renwick of Fylde Borough Council failed to comply with that authority's code of conduct. The Assessment Sub-Committee referred the complaint for investigation on 2 December 2008.
2. The sub-committee identified the following paragraphs of the Code of Conduct that it considered might have applied to the alleged conduct.
 - failing to treat others with respect (paragraph 3.1 of the code)
 - bullying (paragraph 3.2.2)
 - bringing an office or authority into disrepute (paragraph 5)
3. The report has now been completed and is attached to this report. The report finds that Councillor Renwick failed to comply with paragraph 3.1 of the code, but did not fail to comply with paragraphs 3.2.2 or 5.

Action:

The complaint upheld by the report

4. Where a report finds that there has been a breach of the code, the Sub-Committee must refer the report to another meeting of the sub-committee. This will be a formal hearing where the sub-committee will determine whether it agrees that the member breached the code of conduct. If it determines that there was a breach, the sub-committee will go on to decide what (if any) sanction to impose on the member.
5. In this case, the report has found that Councillor Renwick failed to comply with paragraph 3.1 of the code. The sub-committee must therefore refer the report to a hearing as described above.

The complaints not upheld by the report

6. Where a report finds that there has not been a breach of the code of conduct as alleged, the sub-committee may accept the findings of the report and formally determine that the member has not failed to comply with the code in that respect. But the sub-committee can decide not to accept the report's conclusion and to refer the alleged breaches to another meeting of the sub-committee for a formal hearing to determine whether there has been a breach.
7. In this case, the report has found that Councillor Renwick did not breach paragraphs 3.2.2 or 5 of the code. The sub-committee may therefore accept those findings and formally determine that Councillor Renwick has not breached those paragraphs. But it can decide not to accept that conclusion and refer the allegations to a formal hearing for determination.

Reference to the Adjudication Panel

8. In either case, today's sub-committee meeting may decide to seek to refer the case to the Adjudication Panel for England instead of to a further meeting of the sub-committee for determination. It is up to the President of the Adjudication Panel whether to accept such a reference. The Panel has published guidance that indicates that the President will only be likely to accept a reference where a more severe sanction than six months' suspension from office would be appropriate.

IMPLICATIONS	
Finance	None
Legal	Contained in the report
Community Safety	None
Human Rights and Equalities	The procedures are statutory and comply with the European Convention.
Sustainability	None
Health & Safety and Risk Management	None

Report Author	Tel	Date	Doc ID
Ian Curtis	(01253) 658506	8 September 2009	

List of Background Papers		
Name of document	Date	Where available for inspection
Investigation report	2 September 2009	Town Hall, St Annes

Attached documents

1. Investigation report.

PRIVATE AND CONFIDENTIAL

Case Reference: SC5

Report of an investigation under Section 59 of the Local Government Act 2000 by Ian Curtis, monitoring officer for Fylde Borough Council into an allegation concerning Councillor Simon Renwick.

DATE: 2 September 2009

Contents

- 1 Executive summary**
- 2 Simon Renwick's official details**
- 3 The relevant legislation and protocols**
- 4 The evidence gathered**
- 5 Summary of the material facts**
- 6 Finding**

**Appendix A Schedule of evidence taken into account and list of
unused material**

Appendix B Chronology of events

1 Executive summary

- 1.1 The allegation is that Councillor Simon Renwick failed to comply with the Code of Conduct in the way he dealt with email correspondence with the complainant and her husband. This is said to be in breach of paragraphs 3.1, 3.2 and 5 of Fylde Borough Council's Code of Conduct.
- 1.2 "Maria Charles" is not the correct name of the complainant. However, it is the name under which she corresponded with Councillor Renwick and under which she made the complaint. The Assessment Sub-Committee agreed with the complainant's request not to disclose her identity, so she is referred to throughout the report by that name.
- 1.2 I found that Councillor Renwick conducted the correspondence in his official capacity. The correspondence was argumentative and antagonistic on both sides. In the course of the correspondence, Councillor Renwick applied the term "bigot" to Mrs Charles and did not withdraw it when challenged.
- 1.3 Councillor Renwick failed to comply with paragraph 3.1 of the Code of Conduct. By applying the term "bigot" to Mrs Charles, he failed to treat her with respect. Councillor Renwick did not fail to comply with paragraphs 3.2 or 5 of the code of conduct.

2 Simon Renwick's official details

- 2.1 Simon Renwick was most recently elected to office on 3 May 2007 for a term of four years.
- 2.2 At the time of the conduct giving rise to the complaint, Councillor Renwick was a member of the executive cabinet of Fylde Borough Council. He is also a member of Medlar-with-Wesham Town Council.
- 2.3 Councillor Renwick gave a written undertaking to observe the Code of Conduct following his election in 2007.
- 2.4 Councillor Renwick was offered training on the Code of Conduct in May 2007 and further training on the revised Code of Conduct in October 2007. However, he did not attend the training.

3 The relevant legislation and protocols

- 3.1 The council has adopted a Code of Conduct in which the following paragraphs are included:

3.1: *You must treat others with respect.*

3.2: *You must not—
bully any person [or];*

intimidate or attempt to intimidate any person who is or is likely to be—

*a complainant,
a witness, or
involved in the administration of any investigation
or proceedings, in relation to an allegation that a
member (including yourself) has failed to comply
with his or her authority's code of conduct...*

5: *You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.*

4 The evidence gathered

- 4.1 I have taken account of oral evidence from Mrs Maria Charles, her husband and Councillor Simon Renwick.

5 Summary of the material facts

- 5.1 During the material period, Councillor Renwick was a member of Fylde Borough Council's executive cabinet. Cabinet members have particular responsibility for an area of the council's activities. Councillor Renwick's particular responsibility included swimming facilities provided by the council.
- 5.2 On 3 March 2008, the council approved its annual budget. The budget proposals that were adopted included the closure of the council-owned St Annes Swimming Pool. The proposed closure of the pool was controversial and generated a considerable degree of public opposition. Nevertheless, the pool was eventually closed, as proposed, on 31 July 2008.
- 5.3 Mrs Charles is a local resident and was a user of the pool. She was concerned by its proposed closure.
- 5.4 The complaint concerns email correspondence between Mrs Charles (and her husband) and Councillor Renwick. The correspondence began on July 4 and ended on July 29 2008. It is set out in full in appendix A to this report. For convenience, I will refer to each email by the reference given to it in appendix A.

6 Reasoning as to whether there have been failures to comply with the Code of Conduct

Official capacity

- 6.1 The breaches of the code of conduct alleged do not amount to criminal offences and thus can only be committed by a member acting in his official capacity. A member acts in his official capacity whenever he

conducts the business of his authority or acts, claims to act, or gives the impression he is representing, his authority.

- 6.2 The correspondence started with SR1, an unsolicited email from Councillor Renwick. This email did not expressly identify Councillor Renwick as a member of Fylde Borough Council. However, its content and “Conservatives” branding showed that Councillor Renwick was acting in his capacity as a councillor when he wrote it. The correspondence that followed took its character from that initial email. In any event, Councillor Renwick was the council cabinet member with particular responsibility for swimming provision. He was clearly conducting the business of his authority when he received or replied to correspondence from members of the public about matters within his responsibility.

The complaint under paragraph 3.1

- 6.3 *The pool closure and the skate park*

The correspondence started with SR1, which was a mail shot emailed by Councillor Renwick to a number of people. In it, Councillor Renwick promoted his involvement in certain projects in and around his ward, including the opening of a skate park in Wesham. Mrs Charles replied with MC1. The correspondence then continued around the central themes of the closure of the swimming pool (which Mrs Charles was opposed to) and the desirability of the skate park (which Mrs Charles challenged).

Both Councillor Renwick and Mrs Charles (and her husband) argued vigorously for their point of view. In particular, Councillor Renwick’s defence of his position was robust. This was warranted by the tone of the correspondence from Mrs Charles and her husband. Some politicians may have responded in a less combative way. Some may not have replied to Mrs Charles at all. But I do not consider that it is to Councillor Renwick’s discredit that he chose to take up or continue the argument.

I do not consider that Councillor Renwick’s general conduct of the correspondence amounted to a failure to treat Mrs Charles with respect. However, I need to consider two elements more closely. These are the use of the word “bigot” and Councillor Renwick’s final email, SR5.

- 6.4 *“Limited patience for bigots”*

In SR3, Councillor Renwick responded to the points that Mrs Charles had made in MC2 by writing: “*I would so like to show you how you are so wrong, but i’ve limited patience for bigots*”. The only reasonable reading of this sentence is that Councillor Renwick was referring to Mrs Charles as a “bigot”.

Mrs Charles' husband challenged Councillor Renwick about using the term "bigot" in MC3. Councillor Renwick explained his use of the term in SR4 (*"Your wife made a very in correct comment about the young people of Wesham. These comments were bigoted against local young people"*), but did not withdraw it.

Later, in the Thread, Mrs Charles complained about Councillor Renwick's use of the term. His response was brief: *"If the cap fits"*.

A bigot is a person who is intolerant, especially regarding religion, politics or race¹. Describing someone as a bigot is disrespectful to them.

Councillor Renwick considers that he was justified in applying the term to Mrs Charles because of what he saw as her intolerant and narrow approach to the provision of facilities for young people. I have considered whether I need to explore the extent (if any) to which, as Councillor Renwick might put it, the cap fitted. I concluded that I did not. Paragraph 3.1 of the code of conduct says that a councillor must "treat others with respect". "Others" is not qualified in any way. A councillor must treat all others with respect, even if he believes that they are not worthy of it.

I find that in applying word "bigot" to describe Mrs Charles, Councillor Renwick failed to treat her with respect, and was therefore in breach of paragraph 3.1 of the code of conduct.

6.5 *"Please do not contact me again"*

SR5 was the final email in the correspondence. It was a highly unusual email for a councillor to write to a resident in his council's area. It betrays the considerable pressure and stress that Councillor Renwick was feeling at the time.

It was not disrespectful for Councillor Renwick to seek to end the correspondence with Mrs Charles. He could have done this simply by not writing to her again, or by agreeing to differ with her.

Instead, he went further. He unburdened himself in an intemperate and petulant way. But, on balance, I do not find that SR5 of itself amounted to failing to treat Mrs Charles with respect.

The complaint under paragraph 3.2

- 6.6 The correspondence between Councillor Renwick and Mrs Charles and her husband was robust, discourteous and (as found above) at times disrespectful. But it did not amount to bullying or intimidation (or attempted intimidation) on the part of Councillor Renwick.

¹ New Collins Concise English Dictionary, 1985

None of the correspondence other than SR5 contained anything that could be reasonably interpreted as a threat. In SR5, Councillor Renwick wrote, *“if you do contact me I’ll will speak to the police about your harassment of me”*. This was a threat in one sense. But a threat to refer the conduct of another to a law enforcement or regulatory agency would not normally be seen as bullying or intimidation. There is nothing else in the correspondence that suggests that Councillor Renwick wished, or intended to do, any harm to Mrs Charles

Mrs Charles wrote to Councillor Renwick under a pseudonym. She must have known that there was no realistic possibility that Councillor Renwick could have known or found out her real name or address. Even if she believed that Councillor Renwick wished her harm, she could not have been under any reasonable apprehension that he could do her harm.

I do not find that Councillor Renwick breached any part of paragraph 3.2 of the Code of Conduct.

The complaint under paragraph 5

- 6.7 Many of the considerations that apply to the complaint under paragraph 3.1 are also relevant to the complaint under paragraph 5. I do not set them out again here.
- 7.7 To amount to a breach of paragraph 5, misconduct must be sufficient to damage the reputation of the member’s office or authority, as opposed to simply damaging the reputation of the individual concerned².
- 7.8 Councillor Renwick’s conduct of his correspondence with Mrs Charles and her husband clearly damaged Councillor Renwick’s reputation in their eyes. However, I do not consider that any inappropriateness in Councillor Renwick’s handling of the correspondence could reasonably be regarded as having brought Fylde Borough Council or the office of councillor or cabinet member into disrepute.

7 Findings

- 7.1 I find that Councillor Renwick conducted the correspondence with Mrs Charles and her husband in an uncompromising way that could be interpreted as antagonistic. But I do not find that this amounted to a breach of the code of conduct. However, I do find that his applying the term “bigot” to Mrs Charles was a breach of paragraph 3.1 of the code, in that he failed to treat Mrs Charles with respect.

² See Q42 on page 54 of the Case Review 2007, published by the Standards Board for England.

FINAL

- 7.2 I do not find that there was a bullying or intimidation (or attempted intimidation) by Councillor Renwick. I do not therefore find a breach of breach of paragraph 3.2 of the code.
- 7.3 I do not find that the way in which Councillor Renwick conducted the correspondence could reasonably be regarded as bringing his office or authority into disrepute. I therefore do not find that Councillor Renwick was in breach of paragraph 5 of the code.

Appendix A

The email correspondence

Email from Councillor Renwick to Mrs Charles 4 July 2009 [SR1]

Hi Maria,

If you've seen this week's papers ([click here](#)), you'll know that work is, at last, starting on our great new skate park here in Wesham. I was really keen to get this project off the ground as it helps to give some of the teenagers in our community something positive to do.

However, the story does not end there for Fleetwood Road Park. Over the next year or so a further investment of £85,000 will be made to improve facilities for the whole community. I want to make sure this money is spent on the things we want to see. That's why I am setting up a community-based, non-political 'Friends of Fleetwood Road Park'.

Also, after months of lobbying, the Council has agreed to improve the Kirkham Memorial Gardens. About £80,000 is being spent on a multi games area. The Council has employed two play workers to develop activities there. A further £200,000 is being spent to renovate the area around the War Memorial. Again, I'd like to see local people have a say in how all this money will be spent too.

If you'd like to get involved, let me know by Friday 18th July. This kind of money doesn't come along too often so your help will make sure it is spent on what is important for Wesham. I will, of course, keep you informed of progress, by email and through my updated website at www.simonrenwick.com

Cheers

Simon
01772 682582

Email from Mrs Charles to Councillor Renwick – date uncertain but between 4 and 13 July 2008 [MC1]

I think this is disgusting when St Annes pool is about to be closed - you should be ashamed of yourselves

Maria

**Email from Councillor Renwick to Mrs Charles 13 July 2008
[SR2]**

Tell me please why I should be ashamed of myself. What is shameful is spending £500,000 a year on a pool no one uses. What is shameful is a Government that wont allow us to raise the money we need. What is shameful is expecting local councils to be made to do extra things with no extra money.

The cash for the park in Kirkham is no less than what is deserved . The Skateboard park will be a facility that will be used for years to come by many more people than use St. Annes pool, and the cost of it is one months loss at the pool and it'll last forever.

**Email from Mrs Charles to Councillor Renwick 14 July 2008
[MC2]**

You should be ashamed of yourself because you are where you are because of people like me, the people who vote you in to the council. You should be looking after our interests.

DO NOT tell me no one uses the pool, let me tell you I have been at that pool Friday, Saturday and today Sunday -and there were many other swimmer sthere - check the figures Dont make claims that are false

We need a pool to keep healthy and not cost the NHS money, we need our kids to be healthy, we need them to learn how to swim it could save their lives, we need to continue to swim - long term it saves our health and wellbeing. If the council budget was not being wasted left right and centre you could afford to pay for it. the government want free swimming for all - our council dont - great - i dont want our council, dont blame the government blame the council who cant mamhge the money it gets

Tell me what use a skate park is to me at 49 years of age -it will be of use to a small number of kids for a short stage in their lives while skatboarding is fashionable - Is skateboarding health exercise - not very!! how much is it going to cost in fixing broken bones etc, will pensioners dare go near an area like that - I dont think so, will younger children go near a place like that - no chance, would middle aged people go there - no, would the disabled go there - no way, just a minority.

So wesham kids deserve a skate park do they - what do I deserve as a contributor of income tax, poll tax, council tax, value added tax etc for a working life of 33 years, I/we deserve a pool How will you know how many people use your skate park - will you charge admission, how many people will try and keep as far away aas possible, how much will it cost to keep clean - I dread to think of the type of activities that usually occur around places like that

**Email from Councillor Renwick to Mrs Charles 14 July 2008
[SR3]**

I would so like to show you how you are so wrong, but i've limited patience for bigots.

I'm looking after the people who did elect me. Those of wesham.

The figures show a100,000 people a year less swim than 5 years ago.

Can people not keep fit other ways?

**Email from Mrs Charles' husband to Councillor Renwick 15
July 2008 [MC3]**

This is a reply from maria's husband.

I would like you to know that my wife is not a bigot and never has been in the 26 years that we have been married.

I also have worked from the day I left school in 1974 and along with my wife feel as though I have a democratic right to criticise councillors as well as MP's and anybody else that holds an elected position in society.

Although I am a non swimmer I also feel very strongly that a council run sports facility is about to close in what appears to be a very dictatory manner.

You can claim that central government is starving you of the funding you require but I am afraid that is no excuse for running up large amounts of debt, then selling off assets to try and reduce it,this is mismanagement of public funds.

How can a council close public facilities to save money due to overspend then spend money and expect people to understand when they "magic" funding for new projects?

I fail to understand any local politician that holds themselves above the wishes of their constituents,

I feel that you are over simplifying a very complex problem and just hope that your skate park doesn't require future expenditure on maintenance to comply with new health and safety regs.....do not forget that our society is now claim driven so if there are accidents expect claims.

As far as I am concerned you are part of Fylde Borough Council not just a representative of your ward / constituency and as such should be prepared to look at the bigger picture.

I thought that any public figure should be above name calling and as such show some respect to people with views different to your own.

I would be happy to meet you face to face to discuss this further.

Email from Councillor Renwick to Mrs Charles and her husband 15 July 2008 [SR4]

Which debt have we run up??? Fylde Council is a debt free authority. Your wife made a very in correct comment about the young people of Wesham. These comments were bigoted against local young people. She cast untrue comments about some very good and considerate people who I have happened to work with. I show respect where it is shown, in this case it was not.

The fact is, we, the people of Fylde cannot afford to keep the pool open, it is beyond our means.

It is your right to take councillors to task, but not to tell them they should be ashamed of themselves. I am not a shamed that we've done the right thing for the long term future of Fylde's public services.

I too am more than happy to meet up with you and your wife, the moment you apologies for the comments she made about me and about the good people of Wesham.

Simon

Councillor Simon Renwick
Cabinet Member - Culture & Tourism
Fylde Borough Council
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Email from Mrs Charles' husband to Councillor Renwick 15 July 2008 [MC4]

I have lived in the Fylde for more than 30 years.

I have worked locally for one of the biggest and most successful businesses in this area and nationally.

I have worked with apprentices and as young people have respected their industry and hard work as they have progressed to become very successful in a demanding and constantly changing business and technological environment.

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I have to say that I am still slightly puzzled by what appears to be your somewhat aggressive approach to what is an issue that appears to be dead and buried from a council point of view.

I am not stupid and realise that the decision to close ST. Annes baths was taken well before any public comment on the matter.

St Annes baths will close in a matter of weeks of that I am sure so you councillors have got your way. My concern is what will be closed next. If St. Annes baths is to close then surely Kirkham is next, an old building that must demand more maintenance.

As I said in my previous email my wife is not a bigot, her view is not bigotted, she is hurt by the lack of consultation in this matter.

She has not insulted you by calling you a bigot so why is there any need for apologies.

I will be interested to see the development of this skate park and I truly hope that it is a success, I hope that it is used by young people for the purpose that it is going to be built and I hope it keeps teenagers occupied during the evenings as I feel that they have far too few facilities to use.

As a young married couple we started life in Wesham and hold it dear to our hearts, we are also aware that there has been fairly substantial housing development over the past 20 years and particularly more recently.

As an older person (50+) it now becomes obvious to me that my views no longer matter.....I have enjoyed to see both my wife and daughter use St Annes Baths and I know how important it has been in their lives, particularly my wife who has benefitted from this use during and after illness.

We do not live in St Annes but are aware of the strong feeling that this decision has created.

I am sad that in the future my wife will have to travel to Preston to be able to swim in a privately run establishment but that does not address the underlying problem that an important facility to a lot of people is going to be lost.

I personally find that extremely sad.....but as long as it saves money that should please the council so for that I must applaud you all.....and I am a non swimmer and never used this facility!

Email from Mrs Charles to Councillor Renwick 18 July 2008, email Councillor Renwick to Mrs Charles (date uncertain but between 18 and 29 July 2008), email Mrs Charles to Councillor Renwick 29 July 2008 [the Thread]

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[This correspondence is reproduced largely in its original format, showing Mrs Charles' initial email [like this](#), Councillor Renwick's reply [like this](#) and Mrs Charles' rejoinder [like this](#)]

Councillor Renwick

(representative of the Conservative party and Fylde Borough councillor of Tourism & Culture)

As you so nicely put it "At the expense of extending this email argument any more than is necessary, please see my responses below."

This is Maria Charles and I am complaining to you for calling me a bigot.

SR If the cap fits. MC (Childish Councillor Renwick, particularly from a representative of the conservative Party – also a great way to EARN respect)

MC I am offended by you calling me a bigot; I am most certainly not a bigot.

SR You make the point that pensioners would be *sacred* to go near the park because of the young people, that to me show a certain degree of bigotry! MC (No, it makes me realistic, Councillor Renwick, but certainly not bigoted)

MC I hold extremely high personal moral values and at the core of my values lies fairness for all, and it is with fairness for all in mind that I originally contacted you. I would like a facility (in particular the Swimming Pool) that everyone can use not just a minority. **YOU** contacted me to tell me about your skate park, **YOU** put yourself forward as a councillor to represent people, **YOU** hold the position of councillor for tourism and culture.

SR I would like a swimming pool and I would also like a hundred and one other things. MC (You are getting on your way to getting 101 things -£200,000 for park gardens, £70,000 for a skate park – in the space of one week. That is some going - over a year – how much? 52 x £270 = £13,500,000 – there you go you can have two swimming pools for that)

SR However, the Government limits the amount of cash we can raise and makes us spend it on thing which are not local priorities. MC (Petty dig at the Labour government)

SR I contact you to tell you about starting s friends group to help develop the parks. You told me I should be ashamed of myself. I am not ashamed of looking after Wesham, the people who elected me and those who I have a responsibility over. MC (You should, a park and a Swimming Pool do not compare a park is not a life saving facility, a pool is. FBC's constitution states that councillors are democratically accountable to residents in their electoral ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their ward residents, including those who did not vote for them. [Your role as Portfolio Holder for Tourism and Leisure in the Cabinet can also imply the need for a broader view than just your constituency])

SR So I am representing my people by providing them services and facilities while making the hard decisions we're backed into making. It is fairness for all that is my *guiding principal*. If the skateboard park and the memorial gardens and the friends groups were *scraped* tomorrow, the money saved could not be used on the pools anyway as we're dealing with money that does not belong to the council and we're dealing with money that is capital and not revenue. MC (You hold a position within Fylde Borough Council "Tourism and Culture"; you therefore have a responsibility for tourism & culture for the Fylde not just Wesham)

MC I should like to point out that I cast no single comment about any persons you happen to work with - I did make some very accurate comments about the society in which we live and the possibilities of expensive injuries that may occur at your skate park and of the passing popularity of such an activity

SR You made some very knee jerk and reactionary comments that just happened to fit your argument. The council operates a number of Skatepark and not once has a claim be made against an injury. MC (YET)

SR You made an bigoted comment based on ignorance. MC (I did not)

SR You also state skateboarding is a passing phase. On what evidence? MC (This evidence - Drawings from the Stone Age were found in "the cave of swimmers" near Sura, dating back

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to 2000 B.C (Wikipedia). SR Skateboarding has been popular for 20 years or more and has outlived many other pastimes. MC (But not swimming – AND it does not save lives AND not all people can partake in skateboarding) SR In fact it is now more popular than ever. You only have to look at the skate parks already operating. You'll also be surprised to know about the number of skaters in their 20s and 30s. It is not just for teenagers. MC (Yes I would have to look at the evidence – Do you have some evidence that compares skateboard parks to swimming)

MC I could comment on the cost to the Fylde borough of street cleaning another Borough (Wyre) being almost exactly the same as the cost of the Pool

SR We don't clean any other boroughs streets. We may empty the bins but the income we get for doing so outweighs the cost of doing so. MC (Not what has been reported in the press – a figure of £609,000 was reported as an overspend –does this service still generate a surplus including this figure?)

MC I could comment on the selling off of assets (Heeley Road) at around half its market value

SR You could, but again do you know the facts. The Heeley Road warden controlled emergency housing unit will save FBC £90,000 a year in B&B costs. It is a facility that we have a moral and legal duty to provide. I am sure your marriage is very happy, but some people live in fear of domestic violence and sometimes they need to get away from abusive spouses with their families. This unit will provide that service and I for one am proud to support it and I don't mind the fact that FBC loses out on maybe £50k of capital income. It'll be more than made up for in 6 months. MC (I was talking about selling an asset worth £400K for £200k, not about provision for B&B versus Warden controlled accommodation.) On investigation the Heeley Road Hostel Group claim the site is worth around £400,000 to £500,000. FBC plan to sell it for less than this (it is believed to be less than £300,000. More importantly, the Cabinet has decided to give the purchaser a grant equal to the purchase price. This would mean giving away land worth up to £500,000 and at the same time closing the swimming pool.

MC I could comment on building new council offices to replace the historical offices you now have

SR There is nothing historical about the Town Hall, and besides that it's not getting pulled down. English Heritage won't list it, it's not a Porritt building and it is not fit as an efficient effective office. A new build will save FBC £420,000 a year in wasted utilities, heating and lighting small drafty offices (that were actually hotel rooms!). The computers that the staff use will last longer as they won't be ingesting sand. MC (You are scraping the barrel with that comment. I wonder how seaside hotels worldwide cope with that) SR So again, a very wrong statement

MC The Town hall is beautiful, My daughter went round when she was a primary school and was amazed, she talked about it for weeks afterwards, the kids did projects on the place, that is heritage The council have already spent £250,000 of taxpayer's money on plans and fees alone for the latest version of the scheme. Again this could have been spent on keeping the LIFE SAVING Pool open

MC I could comment on the expensive survey you commissioned on the future of St Annes, which recommended that the Pool should be kept open

SR We did not commission an expensive survey. A private and speculative leisure operator commissioned a study to look at the potential for the Island site in St. Annes. At the time the assumption was the pool would remain – this did no such thing as say that the future of St Annes relied upon the Pool.

MC Well that is not what was reported in the local press. Blackpool Evening Gazette had a copy of the report, believed to have been commissioned for FBC the report gave four options ranging from minimal change to a £35 million new scheme.

MC I could comment on your holding of precious art, which could be sold - or made available to the public to see

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SR I would love to sell some art work. There is just the small matter of the Lancashire Act, which forbids all Lancashire Authorities from selling art. And again it is not a true statement to say that the public can't see it. The public can see all our art by arrangement at the Town Hall, or by going to Lytham Hall or even going to the Fylde Gallery at Booths in Haven Road in Lytham and seeing 24 pieces of FBC art at any one time. So again, an untrue statement.

MC OK, I will have to take your word for that.

MC I could comment on mayoral cars and many more things.....

SR Again, comment away, but the Mayoral car used to cost over £50,000 a year. It was my committee, when I was a chairman, that brought the service in house and it cost £18,000. I'm not a keen supporter of the function of Mayor and it's trappings. That is why I was keen to make it cost the least amount possible. (We agree on something)

MC You quote in your email that 100,000 people a year less swim than 5 years ago. From the spreadsheet you sent me on the month of May's attendance the figure I calculate is less than half of that - when you also take into account the shorter opening hours of the pool, the fact that year on year the council has put restrictions on swimmers in terms of increased car parking costs etc this is not surprising, if you compensated for the available swimming hours (open to the public hours) this would again decrease significantly more

SR May is one of the least busy months. Trust me 190,000 swims were sold at St. Annes in 2000. It's now 90,000. The opening hours are tailored to suit the people who actually go swimming. They were changed to be closed when people were not there. The facts are clear. That pool in St. Annes loses £500,000 a year. Could your household budget survive that.

MC I am one of the people who actually goes swimming, I have swam, at St Annes Pool, two to four times a week, every week, for around the last six or seven years, it would be more if the opening times were worker friendly, they have got worse in the time I have been swimming. It is only possible to swim Sat, Sun, Wed pm and Fri pm fitting in around office hours (it closes earlier than it used to at weekends and Mon & Thur it used to be open later in the evenings)

If the council had better managed the pool, over several years we may not be in this situation now (and the conservative have been in power how long?). If costs had not been increased more people would swim, when maintenance/investment is reduced or stopped and opening hours cut, the place becomes less attractive and available. There has been no new developments or re-investments to maintain interest and attract new users, therefore less people swim. Prices go up again and so on I suspect (opinion, not fact), the biggest losses are from visitors. There has been a big reduction in spending on tourism and the events that support it. The pool income would have been based on a percentage of visitor income. The pool never even had its opening hours displayed. In your Tourism role please could you tell me how much the income from **residents** and how much the income from **visitors** has gone down. Finally the extremely negative publicity about the pool will have put people off, schools have already made alternative arrangements, and the swimming teacher has also gone elsewhere. All of those things are going to reduce numbers.

MC With respect to your dismissive comment "Can people not keep fit other ways?" - well actually a lot of people can not keep fit in other ways - swimming is one way that people of all ages and abilities including the physically disabled, blind, overweight etc

SR Your reply here is as dismissive MC No it is not SR and in fact answers itself. MC No it does not SR There are hundreds of other ways to keep fit and hundreds of other places to do it No MC there are not hundreds of places for all ages and abilities

MC I should like to point out that I have NOTHING to apologise to you for and that I DO NOT APOLOGISE to you I should also like to point out that the tone of your emails leaves much to be desired

SR Well, actually you do. You made accusations based on ignorance, you've side swiped my integrity, you've made statements about people who you don't know and you've cast all young

skateboards as people who scare pensioners. So your apology would be welcomed. MC I MOST CERTAINLY DO NOT HAVE ANYTHING TO APOLOGISE TO YOU FOR. My comments are based in the majority on personal experience and fact, and only in a very few instances the press. Where my comments are based on what I have read in the press it is local press not sensationalist press, and I have never seen any claim that what has been reported has been misrepresentation. I have not made a single statement about someone I do not know. This has been my one and only experience of dealing with the council/Conservative party and I would never have been expected to have been corresponded with in such a way. You do not represent the Council or your party in a positive or professional manner
I am not in any way against the Conservative party, but following this experience I will not be able to vote for you in any future elections – I will actually vote for any opposition there is

Maria

Email Councillor Renwick to Mrs Charles 29 July 2008 [SR5]

I am not interested anymore in you. Please do not contact me again. You are removed from my mailing list and if you do contact me I'll will speak to the police about your harassment of me. You do not listen, you base your opinion on hear say and press speculation, your arguments are not based on fact and your perception is wrong.

I will spell this out again just to make sure you understand. Never e-mail me again, I cannot win or not even have a fair hearing from you. Time will tell who's approach is right and I will look forward to your apology in due course and your thanks for the efforts I've put in to maintaining swimming in the Fylde.

Simon

Councillor Simon Renwick
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Appendix B

Schedule of evidence taken into account

Case reference: SC5

Core documents

Doc No	Description	Pages
1	Complaint from Maria Charles	1-2

2	Code of Conduct for Fylde Borough Council	3-10
	Email correspondence between Councillor Renwick and Mrs Charles	In appendix A

Notes of interviews with witnesses

Doc No	Description	Pages
3	Transcript of interview with Maria Charles and her husband	12-21
4	Transcript of interview with Councillor Simon Renwick	22-29

Mrs Charles' comments on draft report

Doc No	Description	Pages
5	Annotated draft report	30-42

Appendix C

Chronology of events

- 3 March 2008: Fylde Borough Council budget meeting that decides to close St Annes Swimming Pool.
- 4 July 2008: Email from Councillor Renwick to Mrs Charles
- Some date between 4 and 13 July: email from Mrs Charles to Councillor Renwick
- 13 July 2008: Email from Councillor Renwick to Mrs Charles
- 14 July 2008: Email from Mrs Charles to Councillor Renwick
- 14 July 2008: Email from Councillor Renwick to Mrs Charles
- 15 July 2008: Email from Mrs Charles' husband to Councillor Renwick
- 15 July 2008: Email from Councillor Renwick to Mrs Charles and her husband
- 15 July 2008: Email from Mrs Charles' husband to Councillor Renwick
- 18 July 2008: Email from Mrs Charles to Councillor Renwick
- Some date between 18 and 29 July: Email from Councillor Renwick to Mrs Charles
- 29 July 2009: Email from Mrs Charles to Councillor Renwick
- 29 July 2008: Email from Councillor Renwick to Mrs Charles

REPORT



REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	CONSIDERATION AND HEARING SUB-COMMITTEE	28 OCTOBER 2009	5

CONSIDERATION OF INVESTIGATION REPORT: SIMON RENWICK

Public Item

This item is for consideration in the public part of the meeting.

Summary

The report into a complaint that Councillor Simon Renwick has failed to comply with the code of conduct has been received. It does not uphold the complaint. The sub-committee can formally dismiss the complaint.

If it does not dismiss the complaint, it must arrange a hearing, or decide to seek to refer the case to the Adjudication Panel.

Recommendations

1. Accept the finding of the investigating officer that Councillor Simon Renwick did not fail to comply with the code of conduct.

Report

Background

1. A complaint was received that Councillor Simon Renwick of Fylde Borough Council failed to comply with that authority's code of conduct. The Assessment Sub-Committee referred the complaint for investigation on 10 September 2008.
2. The sub-committee identified the following paragraph of the Code of Conduct that it considered might have applied to the alleged conduct.
 - Improperly using the resources of the authority (paragraph 6.2 of the code)

3. The report has now been completed and is attached to this report. The report finds that Councillor Renwick did not fail to comply with the code.

Action:

4. Where a report finds that there has not been a breach of the code of conduct as alleged, the sub-committee may accept the findings of the report and formally determine that the member has not failed to comply with the code in that respect. But the sub-committee can decide not to accept the report's conclusion and to refer the alleged breach to another meeting of the sub-committee for a formal hearing to determine whether there has been a breach.
5. In this case, the report has found that Councillor Renwick did not breach the code. The sub-committee may therefore accept those findings and formally determine that Councillor Renwick has not breached the code. But it can decide not to accept that conclusion and refer the allegation to a formal hearing for determination.
6. If it decides to refer the allegation to a formal hearing, the sub-committee meeting may decide to seek to refer it to the Adjudication Panel for England instead of to a further meeting of the sub-committee. It is up to the President of the Adjudication Panel whether to accept such a reference. The Panel has published guidance that indicates that the President will only be likely to accept a reference where a more severe sanction than six months' suspension from office would be appropriate.

IMPLICATIONS	
Finance	None
Legal	Contained in the report
Community Safety	None
Human Rights and Equalities	The procedures are statutory and comply with the European Convention.
Sustainability	None
Health & Safety and Risk Management	None

Report Author	Tel	Date	Doc ID
Ian Curtis	(01253) 658506	8 September 2009	

List of Background Papers		
Name of document	Date	Where available for inspection

Investigation report	14 April 2009	Town Hall, St Annes
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Attached documents

1. Investigation report.

PRIVATE AND CONFIDENTIAL

COMPLAINT AGAINST COUNCILLOR RENWICK
14 AUGUST 2008

Case Reference: 6

STANDARDS

Report of an investigation under Section 59 of the Local Government Act 2000
by David Whelan appointed by the Monitoring Officer of Fylde Borough
Council into an allegation concerning Councillor Simon Paul Renwick.

Report prepared by:

Mr David Whelan
Legal Services Manager
South Ribble Borough Council
Civic Centre
West Paddock
Leyland
PR25 1DH

DATE: 14 April 2009

Contents

- 1 Executive summary**
- 2 Simon Paul Renwick's official details**
- 3 The relevant legislation and protocols**
- 4 The evidence gathered**
- 5 Summary of the material facts**
- 6 Simon Paul Renwick's additional submissions**
- 7 Reasoning as to whether there have been failures to comply with the Code of Conduct**
- 8 Finding**

Appendix A Schedule of evidence taken into account and list of unused material

Appendix B Chronology of events

1 Executive summary

- 1.1 The complainant is Councillor Elizabeth Oades. On the 14th of August 2008 – via email – she submitted a formal complaint to Ian Curtis Monitoring Officer with Fylde Borough Council relating to Councillor Simon Paul Renwick.
- 1.2 This complaint reads as follows:

“I wish to register a complaint about an alleged use of Council resources for political purposes by Councillor Simon Renwick.”

“Councillor Elaine Silverwood and I have received complaints from a member of the public and members of staff that Councillor Renwick entered Kirkham baths at a time when they were closed to the public, he undressed and entered the pool and was photographed by a gentleman friend. The photograph has subsequently been used in a political newsletter which has been widely distributed in the Kirkham area.”

“On the 30th July, I received an email from a member of the public claiming that Councillor Simon Renwick, accompanied by a gentleman friend, had entered into Kirkham Baths on 29th July, at approximately 6.25 pm. The pool had been closed to the general public. He proceeded to enter the pool and had several pictures taken by his friend, he then left the pool.”

“After the claim was made to me I contacted members of staff to ascertain whether the information in the email was correct and it was confirmed as being correct. I asked whether Councillor Renwick and his friend had paid an entry into the baths and was advised that they did not as the baths were closed to the public. I was also advised that the duty lifeguard who had finished her duty at 6.30pm was told to return to duty until Councillor Renwick had left the pool at approximately 7.00 pm.”

“On the 7th August, I was advised by a member of the public that Councillor Renwick was circulating a political newsletter throughout the Kirkham area, one of the photographs taken of Councillor Renwick on the 29th July, at the Kirkham Pool, was featured on the front page of the newsletter. I asked members of staff whether it was possible that the photograph had been taken on a different occasion and was advised that they were not aware of Councillor Renwick using the Kirkham Pool at any time in the past.”

“I believe that Councillor Renwick has breached the Code of Conduct under Part 1 General Provisions, Section 6 (a) (b) (ii) in that he appears to have used Council resources for political purposes.”

- 1.3 The provision of the Code of Conduct that I considered was paragraph 6.2 (this includes both 6.2.1 and 6.2.2).
- 1.4 Having investigated the matter I have come to the conclusion that there is no breach of the Code of Conduct.

2 Simon Paul Renwick's official details

- 2.1 Simon Paul Renwick was first elected to office in May 2003. He represents the Medlar-with-Wesham ward with Fylde Borough Council. Councillor Renwick is also a member of the Medlar-with-Wesham Town Council.
- 2.2 Councillor Renwick currently serves on the Cabinet of Fylde Borough Council. He is the portfolio holder with responsibility for community services.
- 2.3 Councillor Renwick gave a written undertaking to observe the Code of Conduct on 9 May 2007.
- 2.4 Councillor Renwick was offered training on the Code of Conduct in 2006 and 2007 but did not attend.

3 The relevant legislation and protocols

- 3.1 Fylde Borough Council has adopted a Code of Conduct in which the following paragraph is included:
 - 6. You-
 - 6.1 ...
 - 6.2...must, when using or authorising the use by others of the resources of your authority –
 - 6.2.1 act in accordance with your authority's reasonable requirements
 - 6.2.2 ensure that such resources are not used improperly for political purposes (including party political purposes)...

4 The evidence gathered

- 4.1 I have taken account of oral evidence from Councillor Oades, Councillor Silverwood, Mr Chris Holland, Mr Paul Norris, Ms Susan Rayner, Mr Paul Maynard, and Councillor Simon Renwick. In addition whilst carrying out my investigation I spoke briefly (by telephone) to Ms Lisa Fairhurst and Mr Lee Appleton to see if they knew anything of the incident – neither were able to enlighten me about the incident in question. I also wrote to Mr Chris Cameron to see if he could help me

with my inquiries but unfortunately he never responded to my correspondence.

- 4.2 I have taken account of documentary evidence obtained from Councillor Oades.
- 4.3 I have also taken into account additional comments made by Councillor Oades on the draft investigation report (dated the 23rd of March 2009).

5 Summary of the material facts

- 5.1 The allegation relates to an incident that took place on the 29th of July 2008 at Kirkham Baths. Paragraphs 5.2 to 5.6 set out the allegations in summary; paragraphs 5.7 to 5.16 set out my findings of fact.

Complaint

- 5.2 In her complaint of the 14th of August 2008 Councillor Oades asserts that a member of the public had informed her that Councillor Simon Renwick had entered Kirkham Baths on 29th July, at approximately 6.25 pm for the purpose of having photographs taken of him in the pool. He was accompanied by a friend. The pool had been closed to the general public.
- 5.3 Councillor Oades further states in her complaint that Councillor Renwick did not pay for entry into the baths. Councillor Oades was also advised that the duty lifeguard who had finished her duty as 6.30 pm was told to return to duty until Councillor Renwick had left the pool at approximately 7.00p.m.
- 5.4 It was the understanding of both Councillor Oades and Councillor Silverwood – based on various conversations that they had including conversations with staff members – that Councillor Renwick had not been granted prior permission to use the baths on the occasion in question.
- 5.5 Councillor Oades denies any suggestion that her complaint is politically motivated (see paragraph 6.1 below). She states that she submitted the complaint to Fylde Borough Council's Standards Committee because of complaints she had received from members of staff and members of the public.
- 5.6 Councillor Oades has commented that staff may be reluctant to say anything contentious as they could be fearful of their job prospects.

Findings of Fact

- 5.7 Councillor Renwick attended Kirkham Baths on the evening of the 29th of July 2008. Councillor Renwick was accompanied by Mr Paul Maynard. Councillor Renwick attended Kirkham Baths for the purposes

of a photo session. Councillor Renwick went into the pool during the time when the pool was closed to the public and prior to the swimming club starting their use of the pool. I understand from various staff members that the pool in question would close to the public at 6.30pm and the use of the pool by the swimming club would commence at 7.00pm. It is clear to me that Councillor Renwick entered the pool between these times. For the sake of completeness though Councillor Renwick indicated that he thought that it was slightly earlier than 6.30pm that he entered the pool. However, I do not consider this to be significant as all the evidence demonstrates that Councillor Renwick entered the pool in the time after it had closed to the public and prior to use by the swimming club

- 5.8 The photograph that appeared on the front page of Kirkham Newline in the July/August edition was taken at the photo session at Kirkham Baths on the 29th of July 2008.
- 5.9 Councillor Oades produced in evidence a copy of Kirkham Newline from November 2008. This also contained a photograph of Councillor Renwick at Kirkham Baths. Councillor Oades queried whether this photograph was also taken on the 29th of July. Councillor Renwick has clarified that this photograph was taken on another occasion when he was shadowing a life guard.
- 5.10 Having interviewed Mr Paul Norris (formerly Executive Manager – Culture and Community Services at Fylde Borough Council) it is clearly the case that Councillor Simon Renwick did seek prior approval/permission for his photo session. As Councillor Renwick is portfolio holder for leisure Mr Norris considered it appropriate to allow him to have photographs taken. Mr Norris granted the requisite consent. This consent was subject to three conditions;-
- A. that no public should be in the baths at the time;
 - B. that there should be no cost to the Council;
 - C. that anyone else using the pool at the time should also give consent.
- 5.11 However, not all staff at Kirkham Baths appeared to have been informed of Councillor Renwick's visit. For example Ms Rayner who was working at the baths on the evening in question was not expecting his visit. Clearly this might have created some ill ease.
- 5.12 When I interviewed Councillor Renwick he stated that he had obtained prior approval to use the pool from both Mr Paul Norris and Mr Chris Holland. Mr Holland has stated that he was on leave at the time and had no prior knowledge of the incident. However, the evidence of Mr Norris is clear and unequivocal on the point (see paragraph 5.10 above) – he has stated categorically that he gave prior consent. Mr Chris Holland has stated that he would have granted consent to Councillor Renwick to use the pool on the occasion in question if he had been asked beforehand.

- 5.13 Councillor Renwick did not pay to use the baths. However, I note that staff of Fylde Borough Council and Councillors may use the pool free of charge as part of a programme of encouraging people to keep fit.
- 5.14 Taking into account observations made by both Mr Paul Norris and Mr C Holland (Leisure Manager) the presence of Councillor Renwick would not have required the duty lifeguard to extend her duty by 30 minutes from 6.30pm to 7.00pm. The duty lifeguard would still have been in the building in any event. I understand that this is what would already have been budgeted for.
- 5.15 Both Councillors Oades and Silverwood expressed serious concern that Councillor Renwick was in their opinion trying to claim the credit for having saved Kirkham Baths. Whilst I can appreciate the strength of the feelings on this issue clearly it is not my role to comment on the broader issues relating to the future of Kirkham Baths.
- 5.16 Mr Paul Norris has clearly stated that he would have been comfortable about rejecting Councillor Renwick's request to use the baths if there were genuine reasons for so refusing. I see no reason to doubt this evidence. Mr Paul Norris is no longer an employee of Fylde Borough Council. Mr Chris Holland has stated that in his opinion staff would have not have felt intimidated by Councillor Renwick. On balance I accept this evidence.

6 Councillor Simon Paul Renwick's additional submissions

- 6.1 Councillor Renwick has commented that he considers this complaint to be a politically motivated complaint.
- 6.2 In carrying out this investigation I have concentrated on all issues that I consider to be relevant to the complaint under investigation – I have not looked into these submissions as they are not directly relevant to the question of whether Councillor Renwick is in breach of the Code of Conduct.

7 Reasoning as to whether there have been failures to comply with the Code of Conduct

- 7.1 The first question to address at the outset is "What are the resources of an authority"? Guidance from the Standards Board (e.g. Case Reviews) state clearly that the resources of the authority include services and facilities as well as the financial resources of the authority. In this context resources could include any land or premises, equipment, computers, and materials. The time, skills and assistance of anybody employed by the authority, or working on its behalf, are also resources, as is information held by the authority which it has not

published. On this basis Councillor Renwick has clearly “used” the resources of Fylde Borough Council.

- 7.2 However, I consider that Councillor Renwick has acted in accordance with Fylde Borough Council’s reasonable requirements when using the Council’s resources (para 6.2.1 of the Code). Councillor Renwick sought prior approval from a Senior Officer to attend Kirkham Baths on the evening in question. The time agreed for the visit was designed to minimise disruption. If a photo session had taken place when the general public were in the pool this could have caused complications centred on data protection legislation. The photo session in question was completed prior to the commencement of the use by the pool by the swimming club – hence there was no need to obtain the consent of the swimming club. I am advised that a lifeguard would in any event have been present at Kirkham Baths at the time and hence there were no cost implications to the Council in agreeing to Councillor Renwick’s request.
- 7.3 In the context of the preceding paragraph I note that Fylde Borough Council do not have a protocol governing the use of its resources by members.
- 7.4 I also consider that Councillor Renwick has not breached para 6.2.2 of the Code of Conduct. To reiterate this states that a councillor must ensure that such resources are not used improperly for political purposes (including party political purposes). This issue requires detailed explanation.
- 7.5 The question to ask here is “What constitutes using resources “improperly for political purposes”?”
- 7.6 Paragraph 6.2.2 implicitly acknowledges that party politics has a proper role to play, both in the conduct of authority business and in the way that members carry out their duties. The provisions of the Code will only be breached where such resources are used ‘improperly’ for political purposes.
- 7.7 There will be times when it is acceptable for political groups to use the resources of the authority, for example, to hold group meetings in Council premises. In the Case Review of 2007 the Standards Board specifically state on this issue: “Often it is impractical to separate a member’s political campaigning from carrying out their duties as an elected ward member, such as when they hold surgeries or deal with correspondence from constituents.” The Standards Board go on to state: “However, members and monitoring officers will need to exercise considerable vigilance to ensure that this provision is not abused. They must ensure that there is a sufficient connection between the use of resources and the business of the authority. Only improper use of resources for party political purposes will be a breach of the Code of Conduct.”

- 7.8 The article in Kirkham Newsline (in which a photograph taken at Kirkham Baths on the 29th of July appeared) is headed “Renwick fights to keep Kirkham Baths open.” The article begins – “Hopes are rising that Kirkham Baths can be saved by a partnership between the YMCA, Kirkham Splash Group and the parish, town and district councils in the area.” The article is clearly acknowledging the role of a number of distinct bodies in the campaign to save the Kirkham Baths. Councillor Renwick is specifically quoted as stating; -“On my latest visit to the baths, I heard how numbers are up and more sessions are taking place. We need more. If you want the Baths to stay open, pop I and use them.”
- 7.9 When interviewed Councillor Renwick was asked:” What were the photographs to be used for”? He replied:-“They were partly going to be used to support Kirkham Baths. I believe it is a legitimate thing for a Councillor to do. I and many politicians have their photographs taken in all sorts of areas/places and use them to highlight issues and I see this as being no different.”
- 7.10 I have to say that I sympathise with the views of Councillor Renwick in this regard. Campaigning for the saving of a local facility such as a sports facility or library I consider to be directly connected to a councillor’s work as an elected representative for the people in his area. Further to encourage the public to make greater use of the facilities at Kirkham Baths is also within the remit of Councillor Renwick’s role as the portfolio holder with responsibility for community services. Further the article in question does quite correctly refer to the work of a number of bodies in the campaign to save Kirkham Baths.
- 7.11 I do not consider that Councillor Renwick on this occasion has used the Council’s resources for purely political purposes. Further there is no suggestion – in my considered opinion – of any improper use of such resources.

8 Finding

- 8.1 That Councillor Simon Paul Renwick is not in breach of paragraph 6 (as detailed in section 3 of this investigation report) of the Code of Conduct.
- 8.2 That Fylde Borough Council consider introducing a Protocol relating to the use of the Council resources by councillors. The Standards Board for England strongly recommends that local authorities have protocols dealing with the use of authority resources.

Appendix A

Schedule of evidence taken into account

Case No: 6

Core documents

Doc No	Description	Pages
1	Complaint email	1
2	Code of Conduct for Fylde Borough Council	2-8

Notes of telephone conversations, letters, and interviews with witnesses

Doc No	Description	Pages
3	Notes of Interview with Mr Chris Holland	9-10
4	Notes of Interview with Mr Paul Norris	11-12
5	Notes of Interview with Councillor Oades	13-14
6	Notes of Interview with Councillor Silverwood	15-16
7	Notes of Interview with Councillor Renwick	17-20
8	Notes of Interview with Mr Paul Maynard	21-22
9	Notes of telephone conversation with Ms S Rayner	23
10	Email from Ms L Fairhurst dated 6/02/09	24-25
11	Email from Mr L Appleton dated 14/02/09	26-28

Minutes of meetings and other documentary evidence

Doc No	Description	Pages
12	Kirkham Newslite – July/August edition	29-30
13	Kirkham Newslite – November edition	31-32

Councillor Oades's comments on draft report

Doc No	Description	Pages
14	Email of the 05 April 2009	33-35

List of unused materials

Notes of initial telephone conversation with Cllr Renwick – 16/01/09

Notes of Initial telephone conversation with Cllr Oades – 26/01/09

Notes of Initial telephone conversation with Cllr Silverwood – 28/01/09

Notes of Interview with Chief Executive Mr P Woodward – 13/02/09

FINAL

Appendix B

Chronology of events

- 29th of July 2008 – Councillor Renwick attends a photo session at Kirkham Baths after the pool has closed to the public. He had obtained prior permission from Mr Paul Norris.
- Early August 2008 – Kirkham Newline is published which includes a photograph taken on the 29th of July 2008
- 14th of August 2008 – Councillor Oades submits a complaint to Ian Curtis the Monitoring Officer of Fylde Borough Council

REPORT



REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	CONSIDERATION AND HEARING SUB-COMMITTEE	28 OCTOBER 2008	6

CONSIDERATION OF INVESTIGATION REPORT: FRECKLETON PARISH COUNCILLORS

Public Item

This item is for consideration in the public part of the meeting.

Summary

The report into complaints that ten Freckleton parish councillors have failed to comply with the code of conduct has been received. It upholds one part of the complaint against each of the councillors but does not uphold the remaining parts.

The sub-committee must refer the part of the complaint that has been upheld in the report to a hearing. It can formally dismiss the parts of the complaint that have not been upheld by the report.

The sub-committee must decide whether to seek to refer any part of the case to the Adjudication Panel.

Recommendations

1. Refer the finding of the investigating officer that Councillors Burn, Delany, Dowling, Fiddler, Foster, Greenhough, Rigby, Robb, Threlfall and Willis failed to comply with paragraph 8 of Freckleton Parish Council's Code of Conduct to a further meeting of the sub-committee for a hearing.
2. Accept the remaining findings of the investigating officer that Councillors Burn, Delany, Dowling, Fiddler, Foster, Greenhough, Rigby, Robb, Threlfall and Willis did not fail to comply with paragraph 10 of the code of conduct and that Councillors Delany, Fiddler, Rigby, Robb and Threlfall did not fail to comply with paragraphs 8 and 10 of the code of conduct in relation to other matters.

Report

Background

1. A complaint was received that Councillors Burn, Delany, Dowling, Fiddler, Foster, Greenhough, Rigby, Robb, Threlfall and Willis of Freckleton Parish Council failed to comply with that authority's code of conduct. The Assessment Sub-Committee referred the complaint for investigation on 2 December 2008.
2. The sub-committee identified the following paragraphs of the Code of Conduct that it considered might have applied to the alleged conduct:
 - Failure to declare a personal interest (paragraph 8(1) of the code)
 - Failure to withdraw from a meeting when having a prejudicial interest (paragraph 10(1))
3. The report has now been completed and is attached to this report. The report finds that councillors Burn, Delany, Dowling, Fiddler, Foster, Greenhough, Rigby, Robb, Threlfall and Willis failed to comply with paragraph 8(1) of the code, but did not fail to comply with paragraph 10(1).
4. The report also found that councillors Delany, Fiddler, Rigby, Robb and Threlfall did not fail to comply with paragraphs 8(1) and 10(1) in relation to a related allegation, that Councillor Fiddler did not fail to comply with paragraphs 8(1) and 10(1) in relation to another related allegation and that Councillor Threlfall did not fail to comply with paragraphs 8(1) and 10(1) in relation to a further related allegation

Action:

The complaint upheld by the report

5. Where a report finds that there has been a breach of the code, the Consideration and Hearing Sub-Committee must (except as set out below) refer the report to another meeting of the sub-committee. This will be a formal hearing where the sub-committee will determine whether it agrees that the member breached the code of conduct. If it determines that there was a breach, the sub-committee will go on to decide what (if any) sanction to impose on the member.
6. In this case, the report has found that councillors Burn, Delany, Dowling, Fiddler, Foster, Greenhough, Rigby, Robb, Threlfall and Willis failed to comply with paragraph 8(1) of the code. The sub-committee must therefore refer the report to a hearing as described above.

The complaints not upheld by the report

7. Where a report finds that there has not been a breach of the code of conduct as alleged, the sub-committee may accept the findings of the report and formally determine that the member has not failed to comply with the code in that respect. But the sub-committee can decide not to accept the report's conclusion and to refer the alleged breaches to another meeting of the sub-committee for a formal hearing to determine whether there has been a breach.
8. In this case, the report has found that councillors Burn, Delany, Dowling, Fiddler, Foster, Greenhough, Rigby, Robb, Threlfall and Willis did not breach paragraphs 10(1) or 5 of the code, and that in relation to separate allegations, councillors Delany, Fiddler, Rigby, Robb and Threlfall did not breach paragraphs 8(1) and 10(1), Councillor Fiddler

did not breach paragraphs 8(1) and 10(1) and Councillor Threlfall did not breach paragraphs 8(1) and 10(1). The sub-committee may therefore accept those findings and formally determine that Councillor those councillors have not breached those paragraphs. But it can decide not to accept that conclusions and refer the allegations to a formal hearing for determination.

Reference to the Adjudication Panel

9. In either case, today's sub-committee meeting may decide to seek to refer the matters to the Adjudication Panel for England instead of to a further meeting of the sub-committee for determination. It is up to the President of the Adjudication Panel whether to accept such a reference. The Panel has published guidance that indicates that the President will only be likely to accept a reference where a more severe sanction than six months' suspension from office would be appropriate.

IMPLICATIONS	
Finance	None
Legal	Contained in the report
Community Safety	None
Human Rights and Equalities	The procedures are statutory and comply with the European Convention.
Sustainability	None
Health & Safety and Risk Management	None

Report Author	Tel	Date	Doc ID
Ian Curtis	(01253) 658506	8 September 2009	

List of Background Papers		
Name of document	Date	Where available for inspection
Investigation report	21 August 2009	Town Hall, St Annes

Attached documents

1. Investigation report.

CONFIDENTIAL

Fylde Borough Council

Standards Committee Complaint Reference SC10

Report of an investigation by Mike Dudfield, acting as Investigating Officer, into allegations concerning the conduct of Councillors Linda Burn, Shirley Delany, Marlene Dowling, Trevor Fiddler, Maraline Foster, St John Greenhough, Louis Rigby, Colin Robb, Tommy Threlfall and Elizabeth Willis of Freckleton Parish Council.

This report is submitted to the Monitoring Officer of Fylde Borough Council, Ian Curtis.

21 August 2009

Executive Summary

1. Allegations have been made by Mr Iain & Mrs Annette Begg that:
 - (1) Councillors Linda Burn, Shirley Delany, Marlene Dowling, Trevor Fiddler, Maraline Foster, St John Greenhough, Louis Rigby, Colin Robb, Tommy Threlfall and Elizabeth Willis failed to comply with the Code of Conduct for Freckleton Parish Council in that, at a meeting of the Parish Council on 07 October 2008, they each failed to declare an interest as a member of the Rawstorne Centre in an item relating to the payment of subscriptions for membership of the Centre;
 - (2) Councillors Shirley Delany, Trevor Fiddler, Louis Rigby, Colin Robb and Tommy Threlfall failed to comply with the Code of Conduct for Freckleton Parish Council in that, at a meeting of the Parish Council on 07 October 2008, they each failed to declare an interest as a member of Rawstorne Centre Management Committee in an item relating to a proposal to introduce a dog control order on the playing fields adjoining the Centre;
 - (3) Councillor Trevor Fiddler failed to comply with the Code of Conduct for Freckleton Parish Council in that, at a meeting of the Parish Council on 07 October 2008, he failed to declare an interest, namely that his son was the captain of the Freckleton first XI cricket team, in an item relating to a proposal to introduce a dog control order on the playing fields adjoining the Rawstorne Centre; and
 - (4) Councillor Tommy Threlfall failed to comply with the Code of Conduct for Freckleton Parish Council in that, at a meeting of the Parish Council on 07 October 2008, he failed to declare an interest, namely that his brother was chairman of Freckleton Football Club, in an item relating to a proposal to introduce a dog control order on the playing fields adjoining the Rawstorne Centre.
2. I have investigated whether all ten Councillors failed to declare interests as alleged under paragraphs 8 and 10 of the Code of Conduct for Freckleton Parish Council.
3. I conclude that:
 - (1) there has been a failure by Councillors Linda Burn, Shirley Delany, Marlene Dowling, Trevor Fiddler, Maraline Foster, St John Greenhough, Louis Rigby, Colin Robb, Tommy Threlfall and Elizabeth Willis to comply with paragraph 8 of the Code of Conduct for Freckleton Parish Council in that, at a meeting of the Parish Council on 07 October 2008, they each failed to declare a personal interest as a member of the Rawstorne Centre in an item relating to the payment of subscriptions for membership of the Centre;
 - (2) there has been no failure by Councillors Linda Burn, Shirley Delany, Marlene Dowling, Trevor Fiddler, Maraline Foster, St John Greenhough, Louis Rigby, Colin Robb, Tommy Threlfall and Elizabeth Willis to comply with paragraph 10 of the Code of Conduct for Freckleton Parish Council

in that, at a meeting of the Parish Council on 07 October 2008, they each failed to declare a prejudicial interest as a member of the Rawstorne Centre in an item relating to the payment of subscriptions for membership of the Centre;

- (3) there has been no failure by Councillors Shirley Delany, Trevor Fiddler, Louis Rigby, Colin Robb and Tommy Threlfall to comply with paragraphs 8 & 10 of the Code of Conduct for Freckleton Parish Council in that, at a meeting of the Parish Council on 07 October 2008, they each failed to declare an interest as a member of Rawstorne Centre Management Committee in an item relating to a proposal to introduce a dog control order on the playing fields adjoining the Centre;
 - (4) there has been no failure by Councillor Trevor Fiddler to comply with paragraphs 8 & 10 of the Code of Conduct for Freckleton Parish Council in that, at a meeting of the Parish Council on 07 October 2008, he failed to declare an interest, namely that his son was the captain of the Freckleton first XI cricket team, in an item relating to a proposal to introduce a dog control order on the playing fields adjoining the Rawstorne Centre; and
 - (5) there has been no failure by Councillor Tommy Threlfall to comply with paragraphs 8 & 10 of the Code of Conduct for Freckleton Parish Council in that, at a meeting of the Parish Council on 07 October 2008, he failed to declare an interest, namely that his brother was chairman of Freckleton Football Club, in an item relating to a proposal to introduce a dog control order on the playing fields adjoining the Rawstorne Centre.
4. I find, under Regulation 14 of the Standards Committee (England) Regulations 2008, that there has been a failure to comply with the Code of Conduct.

Relevant Legislation

- 5. On 02 December 2008, the Fylde Borough Council's Initial Assessment Sub-Committee decided to refer the allegations made against the ten Freckleton Parish Councillors to the Monitoring Officer for investigation under section 57A(2) of the Local Government Act 2000.
- 6. Under section 82A of the Local Government Act 2000 the Monitoring Officer can delegate an investigation and on this occasion Mr Curtis has delegated this investigation to me.
- 7. The Standards Committee (England) Regulations 2008 apply to this investigation.

Relevant Paragraphs of the Code of Conduct

8. Paragraph 7 of the Code states -

“7(1) You have a personal interest in any business of your authority where either -

(a) it relates to or is likely to affect -

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body -

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) [not relevant]

of which you are a member or in a position of general control or management

(iii) to (xi) [not relevant]; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision

(2) In sub-paragraph (1)(b), a relevant person is -

(a) a member of your family or any person with whom you have a close association; or

(b) & (c) [not relevant]

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

9. Paragraph 8 states -

“8(1) Subject to sub-paragraphs (2) to (5), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 7(1)(a)(i) or 7(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) [not relevant]

(4) Sub-paragraph (1) only applies where you are aware or ought

reasonably to be aware of the existence of the personal interest.

(5) [not relevant]"

10. Paragraph 9 states -

"9(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business -

(a) does not affect your financial position or the financial position of a person or body described in paragraph 7;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 7; or

(c) relates to the functions of your authority in respect of -

(i) [not relevant]

(ii) an allowance, payment or indemnity given to members;

(iii) & (iv) [not relevant]"

11. Paragraph 10 states -

"10(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority -

(a) you must withdraw from the room or chamber where a meeting considering the business is being held -

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

(b) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the

business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.”

Councillor Details

12. The Councillors have been members of the Parish Council for various periods ranging from 2 years (Councillor Burn) to 39 years (Councillor Dowling). Their respective periods of service are set out in paragraph 1 of their individual statements.
13. Councillors Fiddler, Rigby and Threlfall are also members of Fylde Borough Council. I do not set out their positions or specific responsibilities on the Borough Council as I do not believe that they are relevant to this investigation and its recommended outcomes.
14. All Councillors have given written declarations to the Parish Council (and in the three cases mentioned in paragraph 13 above to the Borough Council) that they would undertake to observe the relevant Code of Conduct for each Council. Only Councillors Delany, Fiddler, Foster, Rigby, Robb and Willis have received specific training on the current Code of Conduct, although the others indicated to me that they had read the Standards Board Guidance.

The Evidence Obtained

15. I have interviewed -
 - the complainants Iain and Annette Begg;
 - all ten Parish Councillors the subject of the allegations; and
 - the Clerk of the Parish Council, Mr Ken Armistead

Background

16. The allegations all relate to events that took place at a meeting of Freckleton Parish Council on 07 October 2008. The Complainants were present at that meeting to hear the Parish Council deliberate on the introduction of a dog control order on areas of the recreation ground adjacent to the Rawstorne Centre in Freckleton. This issue had been the subject of debate within the Parish Council and the village for approximately two years and the Parish Council was to make a final decision on whether or not to seek the introduction of a control order. The Complainants were opposed to the order.
17. The recreation ground is owned by the Parish Council in trust for the parishioners of Freckleton to be used for public pleasure, recreation grounds or allotments by virtue of an Indenture dated 16 March 1910 (Appendix Q). The trust is registered with the Charity Commission (No. 221987). The area contains allotments, a cricket pitch and a football pitch as well as open areas for general public recreation. The Rawstorne Centre is built on part of the recreation ground and there is a surfaced car park serving the Centre and the ground.
18. The Rawstorne Centre was named after Robert Rawstorne who set up a separate trust in the 1970s and, again, the Parish Council is the trustee (see

copy registration in Appendix J1). The Centre is not part of the trust's assets but belongs to the Parish Council. It was established by funding from the trust and from Fylde Borough Council. The Centre comprises licensed social facilities and changing accommodation for the sports teams. The Centre was opened in 1982 and is controlled by a Constitution (Appendix R) which provides for the make-up of the Management Committee (in the Constitution referred to as the General Committee) which controls the Centre and the membership of the Centre. Rule 7(a) provides that the Sections of the Centre are the football, cricket, netball and tennis & badminton Clubs, the Sports Day Committee, the Parish Council and any other section established as part of the Centre. Rule 15 provides for members of each Section to pay an annual subscription comprising a basic subscription to the Centre and a supplementary subscription to the Section of which they are a member. All members of each Section are automatically members of the Centre. As the Parish Council is a Section, all Parish Councillors are required to pay the basic subscription to the Centre regardless of whether or not they use the social facilities at the Centre.

19. Under Rule 8(a) & (b) other Sections have the right to nominate one of their members to be on the Management Committee and the Parish Council has the right to nominate four members to that Committee. A substitute member is allowed to attend if two or more of the four are absent from that meeting.

Allegations by Mr and Mrs Begg

20. The original complaint from Mr & Mrs Begg (Appendix A) sets out a number of allegations and some of these have not been accepted by the Fylde Borough Standards Committee. I set out the allegations that have been accepted and these are the ones listed in paragraph 1 above.

Failure to declare an interest as a member of the Rawstorne Centre (all 10 Councillors listed)

21. At the meeting of the Parish Council on 07 October 2008, the minutes record that no members declared any interest in any of the items on the agenda (see Appendix O minute no.3). The ten Councillors the subject of the complaints were present. All accept that they did not declare any interests.
22. One of the items on the agenda was to consider a request from the Rawstorne Centre for the payment of the membership fees for the 12 Parish Councillors (see Appendix O minute no.6(d)). The Clerk of the Parish Council, Mr Ken Armistead, read out a letter received from the Centre with regard to the payments. At this time, Mr Armistead had been Clerk to the Council for approximately 4 years and in none of the previous years had he received any request for payment. Without being aware of the full history of the Centre, Mr Armistead advised the Councillors that it was inappropriate for Council monies to be used to pay for personal membership of the Centre. A number of the Councillors present referred to the history of the trust and the mandatory requirement for Parish Councillors to be members of the Centre. The Council decided that the membership fees for all 12 Councillors, totalling £48, should be paid by the Council. I am told that previous payments have been met by the Council and Mr Armistead has received confirmation from the previous Clerk that this was so.

23. Mr & Mrs Begg say that the payment of membership to the Rawstorne Centre is a financial benefit to each of the Parish Councillors and that the Councillors who were present at the meeting had an interest which they should have declared in that item. They accept that the sum involved is £48 for the whole Council and not for each Councillor as set out in their letter of complaint (Appendix A). They also say that the payments should not have been made by the Parish Council and that to make such payments is unethical.
24. Each of the 10 Parish Councillors who were present at the meeting believe that there was no need for them to declare an interest as membership of the Rawstorne Centre is mandatory for Parish Councillors. The long serving Councillors recalled the manner in which the Centre was established and the role that the Parish Council had in that. The initial membership fees of the Parish Councillors had been met by the Parish Council and they thought that this was happening each year automatically without reference to the Council. By voting for payment to be made they were continuing the practice previously adopted. The newer Parish Councillors say that they listened to the reasoning put forward and agreed with it. Some were willing to pay their own but the Council agreed to pay for all 12 Councillors.

Failure to declare an interest as members of the Rawstorne Centre Management Committee (Councillors Delany, Fiddler, Rigby, Robb & Threlfall)

25. As I have said in paragraph 18 above, the Rawstorne Centre is run by a Management Committee and four members of the Parish Council are nominated each year to be the Council's representatives on that Committee, together with a substitute fifth member. Mr & Mrs Begg, in their letter of complaint, identified the five Parish Councillors as being members of the Management Committee and they say that they obtained this information from the Parish Council website. The decision letter from the Fylde Standards Committee identifies five Councillors, Delany, Fiddler, Rigby, Robb and Threlfall as the five Councillors to be investigated in relation to this issue. From talking to the Councillors it appears that Councillor Threlfall was not a member of the Management Committee on 07 October 2008, but the other four were, together with Councillor Quinn who was not present at the meeting on that date.
26. Mr & Mrs Begg state that as the recreation ground where the dog control order has been applied is adjacent to the Rawstorne Centre, those Councillors who are on the Management Committee had an interest in that matter and should have declared an interest when the order was being discussed. None did.
27. All four Councillors who are on the Management Committee state that the Management Committee does not manage the recreation ground only the Centre itself. The letting of the recreation ground to the clubs is dealt with by the Parish Council. Therefore, all four claim that they had no interest in the dog control order by virtue of their membership of the Management Committee.

Failure to declare an interest as son captain of the Freckleton Cricket Club 1st XI (Councillor Fiddler)

28. Mr & Mrs Begg state that Councillor Fiddler's son is captain of Freckleton Cricket Club 1st XI. The Cricket and Football Clubs have made complaints to

the Parish Council regarding dog excrement being found on the sports pitches and the complainants believe that the Clubs have been influential in pushing for regulation of dog users and, ultimately, the introduction of the dog control order. Mr & Mrs Begg state that Councillor Fiddler should have declared an interest through his son's position in the Cricket Club and the benefit that the Club believed would derive from the order. He did not do so.

29. Councillor Fiddler states that his son, Gary, ceased to be captain in 2005/06 and therefore had no position of authority during the time that the dog control order was being discussed. He also states that the Cricket Club has never tried to influence or lobby the Parish Council on this issue. The complaints received regarding the dog excrement were primarily in relation to the Football Club as their pitches are immediately adjacent to the car park and, historically, have been the ones most 'abused'.
30. Councillor Fiddler accepts that he did not declare any interest when the dog control order was discussed by the Parish Council. He states that the introduction of the dog control order creates no greater well-being for his son than all other residents of the village for whom the land is held in trust. He does not believe that he was required to declare his son's membership of the Cricket Club as an interest.

Failure to declare an interest as brother chairman of Freckleton Football Club (Councillor Threlfall)

31. Mr & Mrs Begg state that Councillor Threlfall's brother is chairman of Freckleton Football Club. They say that the Football Club has complained regarding dog excrement being found on the football pitches and believe that the Football Club has been influential in pushing for the dog control order. Therefore Councillor Threlfall should have declared as an interest his brother's position within the Club and the benefit that the Club would derive from the order. He did not do so.
32. Councillor Threlfall acknowledges that his brother is chairman of the Freckleton Football Club, but states that he does not believe that his brother played any part in representing the Club in its discussions with the Parish Council on this issue. He acknowledges that there were a number of complaints in respect of dog excrement being found on the football pitch and that it was reported to the Parish Council that referees had threatened to refuse to referee matches because of the condition of the pitch. Councillor Threlfall does not believe that his brother's position as chairman of the Football Club was an interest that he was required to declare.

Conclusions

Facts

33. There is no dispute as to the facts in the issues covered by the allegations. No declarations of interest were made at the Parish Council meeting on 07 October 2008. The only difference in the situation found is the position of Councillor Fiddler's son within the Cricket Club. Mr & Mrs Begg claimed that he was the

1st XI captain whereas Councillor Fiddler stated that he had given up the captaincy by then. His son was, however, still a member of the Cricket Club and has, since the Parish Council meeting on 07 October 2008, become the Club's chairman but that latter fact does not affect the investigation.

Application of the Code of Conduct to these facts

Paragraphs 8 & 10 - Failure to declare an interest as a member of the Rawstorne Centre (all 10 Councillors listed)

34. Through the Constitution of the Rawstorne Centre, all Parish Councillors are automatically members of the Centre. All members of the Centre pay a basic subscription which goes to the Centre's Management Committee. The question is does this constitute a personal interest as defined in paragraph 7 of the Code of Conduct.
35. Paragraph 7(1)(a)(i) of the Code states that a personal interest exists where the business of the Council relates to any body of which the Councillor is a member and to which the Councillor was appointed or nominated by the Council. The Parish Council is the trustee of the Rawstorne Trust and the Council drew up the Constitution under which the Rawstorne Centre is operated. This includes the requirement that all members of Sections incorporated in the Constitution must automatically become members of the Centre. The Parish Council therefore intended that all Parish Councillors would become members of the Centre and such membership is through each individual Councillor's acceptance of office as a Parish Councillor.
36. I therefore conclude that the Rawstorne Centre is a body to which paragraph 7(1)(a)(i) applies and that all Councillors present on 07 October 2008 should have declared a personal interest when the question of the subscription for the Centre was considered at the meeting.
37. Paragraph 8(2) of the Code provides that where a personal interest exists through membership of a body following nomination to that body by the Council there is an exemption that disclosure of the interest need not be made at the meeting unless a member addresses the meeting on that issue. In this case it is clear that none of the ten Councillors was aware that a personal interest existed and that a number of Councillors addressed the meeting and voted on the issue. In those circumstances, I do not believe that it is open to any of the Councillors to claim that the exemption in paragraph 8(2) applied to them.
38. Paragraph 9(1) sets out the test for a personal interest also being prejudicial -

'where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice (the Councillor's) judgement of the public interest.'

I have considered whether the exemption in paragraph 9(2)(a) applies. Each individual member's basic subscription to the Centre was, in 2008, £4. Whilst that amount, either to an individual Councillor or to the Centre may be regarded as sufficiently small, it is a financial payment and I do not consider that the exemption applies.

39. That leaves the issue of whether the test in paragraph 9(1) is met. Parish Councillors are obligated to become members of the Centre regardless of whether any use is made of the Centre. Many Councillors indicated to me that they do not use the Centre. Only one, Councillor Greenhough, is a member of any other Section of the Centre and he is, on a personal basis, a member of the Sports Day Committee, which organises an annual weekend event at the Centre and the recreation ground.
40. Applying the test, would a member of the public with knowledge of the relevant facts reasonably regard each Councillor's interest in the Rawstorne Centre membership subscription as so significant as to prejudice that Councillor's judgement of the public interest in reaching a decision on the payment of the membership subscriptions? The Rawstorne Centre was established by the Parish Council as trustee and, as stated previously, the Parish Council drafted Constitution requires all Parish Councillors to be members of the Centre regardless of the potential use to which that membership would be put. The basic annual subscription for 2008 was £4 per member and there is no reason to suggest that the cost was a material factor in reaching the decision that the Parish Council should meet the payment, indeed a number of members stated to me that they indicated to the meeting that they would be prepared to meet the cost personally.
41. I therefore conclude that whilst the interest was a personal one, it was not a prejudicial one as a member of the public with knowledge of the relevant facts would not regard it as being so significant as to prejudice each Councillor's judgement of the public interest.
42. Although I have not been asked to consider the legality of the payment of the subscriptions by the Parish Council as it is not directly a 'standards' matter, the issue was raised by the complainants and for completeness I will set out my view of the legal position. The recreation ground is owned by the Parish Council as trustee. The Parish Council was also appointed trustee of the Rawstorne Trust under which the Rawstorne Centre was constructed. Whilst the Parish Council directly manages the recreation ground, the Management Committee is responsible for the management of the Centre. The Parish Council made membership of the Centre mandatory for Parish Councillors. To enable the Parish Council to properly fulfil its role as charitable trustee of both trusts, it is eminently sensible for individual Councillors to have access to the property of both trusts to ensure that they have information sufficient to ensure that the trusts are properly managed. In the case of the Centre, this would also include ensuring that the Centre Management Committee is meeting its legal obligations and managing the Centre in a way that meets the purposes of the trust. There are potentially a number of statutory powers that could be used to meet the cost of the membership subscriptions. Mr Armistead has mentioned to me the Local Government (Miscellaneous Provisions) Act 1976, section 19, and it seems to me that the provisions of that section would cover the subscriptions in this situation.
43. There are two final points to make under this aspect of the investigation. The first is simply an observation that Councillor Greenhough is a member of the Sports Day Committee and the basic subscription for the Rawstorne Centre for the Sports Day Committee members is paid for by that Committee. The decision by the Parish Council to pay Councillor Greenhough's subscription creates a situation where his membership fee for the Rawstorne Centre has been paid twice.

44. The second is the relationship between the Parish Council and the two trusts. Where Parish Councils are appointed trustee of trusts within the parish, the possibility will exist of a prejudicial interest arising, particularly around Parish Council funding of trust projects. In my experience, it is the usual practice for the Parish Councillors as a whole, to apply for a dispensation from the Standards Committee to enable the Parish Council to discuss matters concerning the trust without fear of breaching the Code of Conduct. Even though I have not concluded that there was a prejudicial interest on this occasion, I believe that it would be wise for the Parish Councillors to seek a dispensation in respect of the two trusts to prevent the possibility of problems arising in the future.

Paragraphs 8 & 10 - Failure to declare an interest as members of the Rawstorne Centre Management Committee (Councillors Delany, Fiddler, Rigby, Robb & Threlfall)

45. As stated in paragraph 25 above, I have established that the four Parish Councillors who were the appointed members of the Management Committee and were present on 07 October 2008 were Councillors Delany, Fiddler, Rigby and Robb.
46. As Councillor Threlfall was not a member of the Rawstorne Centre Management Committee at that time, I conclude that Councillor Threlfall did not breach paragraphs 8 and 10 of the Code by failing to declare an interest by virtue of his membership of the Rawstorne Centre Management Committee when considering the introduction of a dog control order at the Parish Council meeting on 07 October 2008.
47. The complainants' case is that the Management Committee of the Rawstorne Centre was affected by the decision to introduce a dog control order as the managers of a property immediately adjacent to the area to be covered by the order and that the Parish Council members of the Management Committee therefore had a declarable interest when the order was being discussed by the Parish Council. There is no evidence to suggest that the use of the recreation grounds by dog owners in any way impacted on the management of the Centre or that the Management Committee made any representations to or participated directly in any of the discussions held by the Parish Council over the two years period before the order was made. I therefore conclude that the business of considering whether or not to introduce a dog control order on the recreation ground at Freckleton did not relate to or was not likely to affect the Rawstorne Centre Management Committee and was not an interest under paragraph 7(1)(a)(i) of the Code.
48. Consequently, I conclude that Councillors Delany, Fiddler, Rigby and Robb did not breach paragraphs 8 and 10 of the Code by failing to declare an interest by virtue of their membership of the Rawstorne Centre Management Committee when considering the introduction of a dog control order at the Parish Council meeting on 07 October, 2008.

Paragraphs 8 & 10 - Failure to declare an interest as son captain of the Freckleton Cricket Club 1st XI (Councillor Fiddler)

49. Paragraph 7(1)(b) of the Code states that a Councillor has a personal interest in any business of the Council where a decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the Parish. A relevant person as defined in paragraph 7(2)(a) of the Code includes a member of the Councillor's family.
50. Councillor Fiddler states that his son, who does not live with him, was not captain of the Cricket Club 1st XI on the 07 October 2008 having relinquished the captaincy at the end of the 2006 season. He was still a member of the Cricket Club and, indeed, has subsequently to that date become Club Chairman. The complainants' case is that the issue of the introduction of a dog control order has arisen solely through complaints received from the sports clubs of dog excrement being found on the recreation ground and their ability to play their sport. Councillor Fiddler states that the greater number of complaints came from the Football Club but, in any event, the introduction of the order has had no greater affect on the well-being of the members of the sports clubs than it has on all other parishioners of Freckleton, who have the right to use the recreation ground.
51. Councillor Fiddler's son comes within the definition of relevant person in paragraph 7(2)(a) of the Code. There is no evidence to suggest that Councillor Fiddler's son played any part in making complaints to the Parish Council or had any personal involvement in the issue of dog excrement to a greater level than any other member.
52. The sole issue for determination, therefore, is whether the members of the Cricket Club derived from the decision a level of well-being to a greater extent than the majority of the other parishioners. There is no evidence to suggest that the Cricket Club was involved in the discussions that took place in the two years prior to the 07 October 2008 and I find it difficult to measure the extent of the problem that the dog control order was introduced to remedy as the complainants maintain that very little dog excrement was ever found on the playing fields. The recreation ground as a whole is for the benefit of all parishioners of Freckleton and the effect of the dog control order is to give those parishioners a greater right to use the recreation ground, for whatever purpose, free from dog excrement. I therefore conclude that there is no greater well-being to the members of the Cricket Club than the majority of other parishioners.
53. I conclude that Councillor Fiddler did not breach paragraphs 8 and 10 of the Code by failing to declare an interest by virtue of his son's membership of Freckleton Cricket Club when considering the introduction of a dog control order at the Parish Council meeting on 07 October, 2008.

Paragraphs 8 & 10 - Failure to declare an interest as brother chairman of Freckleton Football Club (Councillor Threlfall)

54. This allegation also involves the definition of relevant person in paragraph 7(2)(a) as applied to paragraph 7(1)(b) of the Code.
55. Councillor Threlfall's brother is chairman of Freckleton Football Club. The complainants' case is that the issue of the introduction of a dog control order

has arisen solely through complaints received from the sports clubs of dog excrement being found on the recreation grounds and their ability to play their sport.

56. The same issue arises as in the last allegation. Did the members of the Football Club derive from the decision a level of well-being to a greater extent than the majority of the other parishioners. From the information that I have been given there appear to have been more complaints from the Football Club than the Cricket Club as referees had threatened to postpone matches because of the amount of dog excrement found on the football pitch. However, for the reasons set out in paragraph 52, I conclude that the level of well-being was no greater for the members of the Football Club than the other parishioners.
57. I conclude that Councillor Threlfall did not breach paragraphs 8 and 10 of the Code by failing to declare an interest by virtue of his brother's position as chairman of Freckleton Football Club when considering the introduction of a dog control order at the Parish Council meeting on 07 October, 2008.

Complainants' response to draft report

58. The Complainants have been sent a draft of this report and have made the following observations to me -

"It seems that the Councillors think that my complaint has been malicious. I can assure you that it was not. Being a serving Police Officer I am expected to adhere to a high standard of conduct and if my behaviour should fall below what is expected then the consequences can be extreme. I was mistaken in thinking that elected members of Councils would be expected to adhere to a similar high standard of behaviour whilst serving the electorate. The recent revelations regarding our MPs allowances seems to have put paid to that misapprehension. It seems that poor behaviour and standards starts at the bottom and works all the way through the Council/Parliamentary system.

I think I mentioned it when you visited but I will reiterate my position, just for the record, that my complaint is not malicious. In fact the complaints submitted by the Council regarding my conduct whilst challenging their conduct is in fact malicious and mischievous, attempting to divert attention away from their poor standards of behaviour. My first complaint was about Cllr Greenhough trespassing on my driveway with a camera taking photographs of my property without permission or the decency of a note through the door. The Councils response was to submit a malicious complaint to my Chief Superintendent, and fortunately it was seen for what it was, a diversionary tactic. AFTER the second complaint, the one you have investigated, was submitted, I attended a PACT meeting at which a local Councillor was present and the full Council submitted a further complaint. Again I believe that complaint to be malicious.

Cllr Willis states in her statement that she has only seen us 'at the council meetings and she sees my wife walking her dogs'. She forgets that we offered her our five barred gate when we made the decision to remove it from our property and the gate is now at the entrance to her allotment."

Subject Members' response to the draft report

59. I have received a composite response to my draft report from the Clerk to the

Parish Council on behalf of all ten Members the subject of the allegations pointing out a misunderstanding on my part of the legal position of the Rawstorne Centre, the trust and the Parish Council (which has now been rectified in paragraph 18) and a misspelling of Rawstorne (which, again, has been corrected wherever it appears in the report).

Finding

60. My finding under regulation 14(8)(a)(ii) of the Standards Committee (England) regulations 2008 is that there has been a failure to comply with the Code of Conduct of Freckleton Parish Council.

Mike Dudfield
Investigator

21 August 2009

Schedule of Evidence

- Appendix A Copy letter dated 03 November 2008 from Mr & Mrs Begg to the Monitoring Officer
- Appendix B Copy statement from Mr & Mrs Begg dated 19 May 2009
- Appendix C Copy statement from Councillor Linda Burn of interview on 07 May 2009
- Appendix D Copy statement from Councillor Shirley Le Grand Delany dated 18 May 2009
- Appendix E Copy statement from Councillor Marlene Dowling dated 14 May 2009 and copy application for Club Registration Certificate dated 10 January 1984
- Appendix F Copy statement of Councillor Trevor John Fiddler dated 11 May 2009
- Appendix G Copy statement of Councillor Maraline Elizabeth Foster dated 12 May 2009
- Appendix H Copy statement of Councillor St John Greenhough dated 14 May 2009
- Appendix I Copy statement of Councillor Louis Rigby of interview on 07 May 2009
- Appendix J Copy statement of Councillor Colin Robb dated 11 May 2009 and supporting response (J1) handed to the Investigator at the interview
- Appendix K Copy statement of Councillor Tommy Threlfall dated 12 May 2009
- Appendix L Copy statement of Councillor Elizabeth Willis dated 11 May 2009
- Appendix M Copy statement of Kenneth Armistead dated 14 May 2009
- Appendix N Copy of the Freckleton Parish Council Code of Conduct
- Appendix O Copy minutes of the Freckleton Parish Council meeting held on 03 November 2008
- Appendix P Extract from Indenture - Bush Lane Charity
- Appendix Q Copy constitution and rules of the Rawstorne Sports Centre
- Appendix R Copy initial response from Kenneth Armistead, Clerk to Freckleton Parish Council received 28 April 2009
- Appendix S Copy exchange of emails between the Investigator and Kenneth Armistead with minutes of various Freckleton Parish Council, Open Spaces Committee and Public Meetings referred to in that exchange (I have not duplicated those contained in the annexes to Councillor Robb's response - J1)
- Appendix T Copy letter dated 17 June 2009 from Investigator to Councillor Fiddler

and email response

Appendix U Copy letter dated 17 June 2009 from Investigator to Councillor Greenhough and email response

Appendix V Copy letter dated 17 June 2009 from Investigator to Councillor Threlfall and note of telephone response on 19 June

REPORT



REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	CONSIDERATION AND HEARING SUB-COMMITTEE	28 OCTOBER 2009	7

CONSIDERATION OF INVESTIGATION REPORT: SIMON RENWICK

Public Item

This item is for consideration in the public part of the meeting.

Summary

The report into a complaint that Councillor Simon Renwick has failed to comply with the code of conduct has been received. It does not uphold the complaint. The sub-committee can formally dismiss the complaint.

If it does not dismiss the complaint, it must arrange a hearing, or decide to seek to refer the case to the Adjudication Panel.

Recommendations

1. Accept the finding of the investigating officer that Councillor Simon Renwick did not fail to comply with the code of conduct.

Report

Background

1. A complaint was received that Councillor Simon Renwick of Fylde Borough Council failed to comply with that authority's code of conduct. The Assessment Sub-Committee referred the complaint for investigation on 2 December 2008.
2. The sub-committee identified the following paragraph of the Code of Conduct that it considered might have applied to the alleged conduct.
 - failing to treat others with respect (paragraph 3.1 of the code)

- bringing an office or authority into disrepute (paragraph 5)
3. The report has now been completed and is attached to this report. The report finds that Councillor Renwick did not fail to comply with the code.

Action

4. Where a report finds that there has not been a breach of the code of conduct as alleged, the sub-committee may accept the findings of the report and formally determine that the member has not failed to comply with the code in that respect. But the sub-committee can decide not to accept the report's conclusion and to refer the alleged breach to another meeting of the sub-committee for a formal hearing to determine whether there has been a breach.
5. In this case, the report has found that Councillor Renwick did not breach the code. The sub-committee may therefore accept those findings and formally determine that Councillor Renwick has not breached the code. But it can decide not to accept that conclusion and refer the allegation to a formal hearing for determination.
6. If it decides to refer the allegation to a formal hearing, the sub-committee meeting may decide to seek to refer it to the Adjudication Panel for England instead of to a further meeting of the sub-committee. It is up to the President of the Adjudication Panel whether to accept such a reference. The Panel has published guidance that indicates that the President will only be likely to accept a reference where a more severe sanction than six months' suspension from office would be appropriate.

IMPLICATIONS	
Finance	None
Legal	Contained in the report
Community Safety	None
Human Rights and Equalities	The procedures are statutory and comply with the European Convention.
Sustainability	None
Health & Safety and Risk Management	None

Report Author	Tel	Date	Doc ID
Ian Curtis	(01253) 658506	8 September 2009	

List of Background Papers

Name of document	Date	Where available for inspection
Investigation report	7 September 2009	Town Hall, St Annes

Attached documents

1. Investigation report.

PRIVATE AND CONFIDENTIAL

Case Reference: SC11

Report of an investigation under Section 59 of the Local Government Act 2000 by Ian Curtis, monitoring officer for Fylde Borough Council into an allegation concerning Councillor Simon Renwick.

DATE: 7 September 2009

Contents

- 1 Executive summary**
- 2 Simon Renwick's official details**
- 3 The relevant legislation and protocols**
- 4 The evidence gathered**
- 5 Summary of the material facts**
- 6 Reasoning as to whether there have been failures to comply with the Code of Conduct**
- 7 Finding**

Appendix A Schedule of evidence taken into account

Appendix B Chronology of events

1 Executive summary

- 1.1 The complaint is that Councillor Simon Renwick failed to respond meaningfully to an email enquiry from the complainant, Mr George Jennings, despite several reminders to do so. This is said to be in breach of paragraphs 3.1 and 5 of Fylde Borough Council's Code of Conduct.
- 1.2 I found that Councillor Renwick did fail to respond meaningfully to an email enquiry from Mr Jennings, despite reminders. He should have responded meaningfully and Mr Jennings was not being unreasonable in expecting him to do so.
- 1.3 However, I do not find that Councillor Renwick's failure to respond meaningfully amounted to a breach of the code of conduct.

2 Simon Renwick's official details

- 2.1 Simon Renwick was most recently elected to office on 3 May 2007 for a term of four years.
- 2.2 At the time of the conduct giving rise to the complaint, Councillor Renwick was a member of the executive cabinet of Fylde Borough Council. He is also a member of Medlar-with-Wesham Town Council.
- 2.3 Councillor Renwick gave a written undertaking to observe the Code of Conduct following his election in 2007.
- 2.4 Councillor Renwick was offered training on the Code of Conduct in May 2007 and further training on the revised Code of Conduct in October 2007. However, he did not attend the training.

3 The relevant legislation and protocols

- 3.1 The council has adopted a Code of Conduct in which the following paragraphs are included:
 - 3.1: 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.

4 The evidence gathered

- 4.1 I have taken account of oral evidence from Mr George Jennings and from Councillor Simon Renwick.

- 4.2 I have also taken account of brief conversations with Councillor John Davies.
- 4.3 I have seen the email correspondence between Mr Jennings and Councillor Renwick and the emails sent by Councillor Davies to Councillor Renwick.

5 Summary of the material facts

- 5.1 During the material period, Councillor Renwick was a member of Fylde Borough Council's executive cabinet. Cabinet members have particular responsibility for an area of the council's activities. Councillor Renwick's particular responsibility included swimming facilities provided by the council.
- 5.2 On 3 March 2008, the council had approved its annual budget. The budget proposals that were adopted included the closure of the council-owned St Annes Swimming Pool. The proposed closure of the pool was controversial and generated a considerable degree of public opposition. Nevertheless, the pool was eventually closed, as proposed, on 31 July 2008.
- 5.3 Mr Jennings is a local resident and the proprietor of a guesthouse in the resort area of St Annes. He was concerned by the proposed closure of the pool.
- 5.4 Mr Jennings wrote an email to Councillor Renwick on June 11 2008. The email included the following questions:

"Following the announcement of making swimming free for pensioners recently and subsequent years for other categories of people...can you tell me how much Fylde would receive under these proposals if you retained the swimming baths. Presumably if you closed them Fylde would not be entitled to any funding.

"If you do not know the answer are you going to postpone a decision until the answer is available? If not why not"

The email also asked to see a copy of a strategy document for tourism, which had been in preparation.

- 5.5 Mr Jennings' email was sent at 20:50. Councillor Renwick replied to it at 23:16 on the same evening. His reply was as follows:

"Hello Mr Jennings

Can you please let me know who you are. After a series of hoax emails I am wary about answering to people I don't know.

Regards

Simon"

(I will refer to this as “the first reply” in the remainder of this report)

- 5.6 Mr Jennings responded the next morning, stating his surprise at what Councillor Renwick had asked him and identifying himself by reference to his guesthouse. Councillor Renwick did not respond to the email. He did not respond to further emails from Mr Jennings on 20 June and 18 July, asking him for a reply.
- 5.7 There was a further email from Mr Jennings to Councillor Renwick on 27 July, but this did not press for a reply to the previous ones. Instead, Mr Jennings said that he had passed copies of his previous emails to Councillor John Davies *“to see if he can get an answer to the queries and why you have not sent any reply...”*. Councillor Davies was the opposition spokesman on matters including swimming provision.
- 5.8 Councillor Renwick responded to this email later on 27 July. He wrote:

“Sorry, I do seem to keep forgetting your question. What was it again?”

(I will refer to this as “the second reply” in the remainder of this report)

Mr Jennings replied the following day, referring Councillor Renwick to his previous emails and to Councillor Renwick’s previous response.

- 5.9 That was the end of that correspondence between Councillor Renwick and Mr Jennings. However, Councillor Davies wrote to Councillor Renwick by email on 30 July and 22 August. He included copies of the correspondence between Mr Jennings and Councillor Renwick and urged Councillor Renwick to reply to Mr Jennings. Councillor Renwick did not reply.

6 Reasoning as to whether there have been failures to comply with the Code of Conduct

Official capacity

- 6.1 The breaches of the code of conduct alleged do not amount to criminal offences and thus can only be committed by a member acting in his official capacity. A member acts in his official capacity whenever he conducts the business of his authority or acts, claims to act, or gives the impression he is representing, his authority.
- 6.2 Mr Jennings wrote to Councillor Renwick about the closure of the pool because Councillor Renwick was the council cabinet member with particular responsibility for swimming provision. Councillor Renwick was clearly conducting the business of his authority when he received or replied to correspondence from members of the public about matters within his responsibility.

The complaint under paragraph 3.1

6.3 *Did Councillor Renwick's failure to respond substantively to the series of emails from Mr Jennings amount to a failure to treat him with respect?*

Mr Jennings was entitled to expect a substantive reply from Councillor Renwick. His emails were not abusive or inappropriate. They were about matters that Councillor Renwick could reasonably be expected to know about, or to be able to find out about.

Councillor Renwick's non-response was caused by the sheer volume of emails which he was receiving at the time – around 100 per day. He did not deliberately ignore Mr Jennings' emails.

Notwithstanding the reasons for it, Councillor Renwick's non-response was discourteous. Mr Jennings was justified in feeling disappointed. But discourtesy is not enough to amount to a failing to treat with respect for the purposes of the code of conduct.

A finding of a breach of the code of conduct exposes an elected representative to the possibility of sanctions, including disqualification from office. Any application of the code needs to have regard to that context. Furthermore, the code represents a set of minimum standards of behaviour below which the conduct of an elected member must not fall. It is not a measure of a councillor's efficiency or responsiveness.

So while Councillor Renwick's failure to reply substantively to Mr Jennings (and subsequently to Councillor Davies) was discourteous, I do not find that it amounted to failing to treat Mr Jennings with respect for the purposes of the code of conduct.

6.4 *Did Councillor Renwick's first reply amount to a failure to treat Mr Jennings with respect?*

Councillor Renwick sent the first reply within two and a half hours of Mr Jennings' email. It began and ended in a civil, conversational style. But its content was unusual. In effect, it asked Mr Jennings to authenticate himself before Councillor Renwick would deal further with his questions.

I do not find that this amounted to failing to treat Mr Jennings with respect. There was no direct accusation that Mr Jennings was a "hoaxer" or any other kind of individual with whom Councillor Renwick was not prepared to engage. The fact that the reply was unusual and unaccommodating does not mean that it was disrespectful to Mr Jennings. I do not find that the first reply amounted to treating Mr Jennings with disrespect.

6.5 *Did Councillor Renwick's second reply amount to a failure to treat Mr Jennings with respect?*

Councillor Renwick sent the second reply within six half hours of the email it responded to. The reply did not begin or end in formally in the way that a letter would normally do. But this is not usually seen as a breach of etiquette in an email reply. It did not answer Mr Jennings' question, but asked him to re-state it again.

I refer to my general observations in paragraph 7.4 in considering whether Councillor Renwick failed to treat Mr Jennings with respect in sending the second reply .Mr Jennings was exasperated by the second reply which, given the history of events by that time, he was entitled to be. But the fact that the reply was unsatisfactory does not mean that by sending it Councillor Renwick failed to treat Mr Jennings with respect.

The complaint under paragraph 5

- 6.6 Many of the considerations that apply to the complaint under paragraph 3.1 are also relevant to the complaint under paragraph 5. I do not set them out again here.
- 6.7 To amount to a breach of paragraph 5, misconduct must be sufficient to damage the reputation of the member's office or authority, as opposed to simply damaging the reputation of the individual concerned¹.
- 6.8 Councillor Renwick's conduct of his correspondence with Mr Jennings clearly damaged Councillor Renwick's reputation in the eyes of Mr Jennings. However, I do not consider that the idiosyncratic way in which Councillor Renwick dealt with the correspondence could reasonably have been regarded as having brought Fylde Borough Council or the office of councillor or cabinet member into disrepute. Indeed, Mr Jennings turned to another councillor, John Davies, to assist him in seeking the information and explanations that Councillor Renwick had not provided.

7 Findings

- 7.1 I find that Councillor Renwick failed to reply meaningfully to Mr Jennings' correspondence. However, I do not find that this failure amounted to a failure to treat Mr Jennings with respect. Nor do I find that Councillor Renwick's two responses to Mr Jennings amounted to such a failure.
- 7.2 I do not find that the way in which Councillor Renwick conducted (or failed to conduct) the correspondence could reasonably be regarded as bringing his office or authority into disrepute.
- 7.3 I therefore do not find that Councillor Renwick was in breach of the code of conduct.

¹ See Q42 on page 54 of the Case Review 2007, published by the Standards Board for England.

Final

Appendix A

Schedule of evidence taken into account

Case reference: SC11

Core documents

Doc No	Description	Pages
1	Letter of complaint, including supporting documents	1-21
2	Code of Conduct for Fylde Borough Council	22-29

Notes of interviews with witnesses

Doc No	Description	Pages
3	Transcript of interview with George Jennings	30-37
4	Transcript of interview with Councillor Simon Renwick	38-42

Mr Jennings' comments on draft report

Doc No	Description	Pages
5	Comments on draft report	43-47

Final

Appendix B

Chronology of events

- 11 June 2008: Mr Jennings' email to Councillor Renwick; Councillor Renwick's reply
- 12 June 2008: Mr Jennings' email to Councillor Renwick
- 20 June 2008: Mr Jennings' email to Councillor Renwick
- 18 July 2008: Mr Jennings' email to Councillor Renwick
- 27 July 2008: Mr Jennings' email to Councillor Renwick; Councillor Renwick's reply; Mr Jennings' response
- 30 July 2008: Mr Jennings' email to Councillor Renwick; Councillor Davies' email to Councillor Renwick;
- 22 August 2008: Councillor Davies' email to Councillor Renwick

Standards Committee



Date	2 September 2009
Venue	Town Hall, St Annes
Committee members	Mr DDE Birchall (Chairman) Councillors Brenda Ackers, Kevin Eastham, Paul Hayhurst Harold Butler, Glynn Driver, Roy Male, Alan Marsh, Richard Nulty
Officers	Ian Curtis, Christopher Kitchen

1. Declarations of interest

Members were reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.

2. Confirmation of minutes

RESOLVED: To approve the minutes of the Standards Committee meeting held on 20 May 2009 as a correct record for signature by the chairman.

3. Substitute members

There were no substitute members.

4. Standards for England Corporate Plan 2009-12

The Committee considered the Corporate Plan which had been published by Standards for England. The Corporate Plan set out its objectives, work and priorities for 2009-12.

The Corporate Plan identified three objectives for the organisation during 2009-12 that are:

- Be a respected strategic regulator adding value to local governance
- Ensure the local standards framework is a success
- Continue to improve our business capability and effectiveness

The Corporate Plan also envisaged Standards for England taking a greater interest in wider issues of corporate governance systems.

The Committee discussed aspects of the Corporate Plan. Some members considered that the standards machinery was disproportionate to the problems it was intended to deal with.

Following the discussion, the Committee RESOLVED to note the Standards for England Corporate Plan.

5. Complaints to the Standards Committee: Statistics

Ian Curtis (Monitoring Officer) reported that three complaints had been made to the Standards Committee since the Committee's previous meeting in May.

Following discussion the Committee RESOLVED to note the statistical information.

6. Local Investigations

Ian Curtis (Monitoring Officer) presented a report that set out the status of the eight matters that had been referred for investigation by the Committee since the introduction of local filtering.

The Committee's expressed concerns regarding the length of time it took to complete an investigation. The Committee deemed it unsatisfactory that a complainant or subject member should have to wait for up to six months for an outcome.

The Committee suggested that an acceptable timeframe would be one month to carry out the initial assessment and a further four months to complete the investigation should it be referred.

Following discussion the Committee RESOLVED to ask the Monitoring Officer to prepare a report to the Council setting out the concerns of the committee.

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